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Swaziland

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List of acronyms

ACHPR	African Charter on Human and Peoples Rights
AIDS	Acquired Immunodeficiency Syndrome
ART	Anti-Retroviral Therapy
AU	African Union
CAT	Convention Against Torture
CED	Convention for the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms Discrimination Against Women
CSTL	Care and Support to Teaching and Learning
ECCE	Early Childhood Care and Education
EDSEC	Education Sector
EHCP	Essential Health Care Package
ENSF	Extended National Strategic Framework
ESSP	Education Sector Strategic Plan
FPE	Free Primary Education
HIV	Human Immunodeficiency Virus
HSSP	Health Sector Strategic Plans
ICRMW	International Convention on Protection of the Rights of All Migrant Workers and Members of the Families
ILO	International Labour organisation
LGBT	Lesbians Gays Bisexual and Transgender
MICS	Multiple Indicator Cluster Survey
MoET	Ministry of Education and Training
MoH	Ministry of Health
NERCHA	National Emergency Response Council on HIV and AIDS
NETIP	National Education and Training Improvement Programme
NSF	National Strategic Framework
OVC	Orphan and Vulnerable Children
PEPFAR	President's Emergency Plan for Aids Relief
PLHIV	People Living with HIV
SPC	Swaziland Primary Certificate
TB	Tuberculosis
TVET	Technical and Vocational Education Training

Contents

		Page
I.	Introduction	4
II.	Methodology and consultation process	4
III.	Developments since the last review: normative and institutional framework	4
IV.	Follow up to the last review: implementation of accepted recommendations	6
	A. Treaty ratifications	6
	B. Thematic issues	7
V.	Achievements and best practices, challenges and constraints	12
	A. Achievements and best practices	12
	B. Challenges and constraints	15
VI.	Key national priorities	17
VII.	Expectations in terms of capacity building and technical assistance	19

I. Introduction

1. The Working Group on the Universal Periodic Review (UPR) reviewed the Kingdom of Swaziland's first national report on 4 October 2011. During the interactive dialogue before the Working Group, Swaziland received a total of 139 recommendations. On 6 October 2011, the Working group adopted its report on Swaziland's first UPR. On 15 March 2012, the Human Rights Council adopted the outcome from the Working Group's report which contained 28 recommendations for Swaziland.

2. This report sets out progress made in the implementation of the 28 recommendations arising from the first cycle of the UPR.

II. Methodology and consultation process

3. On 8 September 2015 Cabinet approved the establishment of the Government UPR National Steering Committee to consult, write and present Swaziland's second National Report to the UPR to the United Nations Human Rights Council. The Committee was chaired by the Ministry of Justice and included the Prime Minister's office, Deputy Prime Minister's, Ministry of Labour, Ministry of Health, Ministry of Education, Academia, Non-Governmental Organisations and Civil Society Organisations.

4. In late September 2015 a workshop was held at Ezulwini, Swaziland to provide technical advice on preparation of Swaziland's Second National Report. The workshop was facilitated by the Regional Office for Southern Africa of the United Nations High Commissioner for Human Rights and the United Nations country team. This workshop provided an opportunity by the UPR stakeholders to reflect on the common understanding of the UPR process and to discuss the national experiences on the last UPR, implementation and progress made on the recommendations, key challenges and the drafting of the Second Report.

5. In early February 2016, the Government led by the Ministry of Justice conducted a consultative meeting with all the relevant stakeholders. In this meeting the draft report was presented and discussed with a view of collecting inputs from the stakeholders. The relevant inputs were subsequently incorporated in this report.

6. The Report was submitted to Cabinet and thereafter to the Human Rights Council.

III. Developments since the last review: normative and institutional frame work

7. The Swaziland Constitutional framework on the respect for, promotion, protection and fulfilment of all human rights and fundamental freedoms is provided for under Chapter 3 (Bill of Rights) of the Constitution of Swaziland Act No., 001/2005 ("the Constitution").

8. Swaziland has put in place an institutional framework that will help improve its human rights record. The institutions include the Human Rights Commission which doubles as an Integrity Commission responsible for the protection and promotion of human rights; The Election and Boundaries Commission responsible for the free and fair conduct of elections; The Land Management Board responsible for the overall management and regulation of any right or interest in land; Government Ministries and Departments. There is also an active civil society that continues to make contributions to the promotion and protection of human rights.

9. Swaziland practices a Tinkhundla-Based Electoral System of Government as provided in Section 79 of the Constitution which provides that the Tinkhundla System is a democratic and participatory system which emphases devolution of power from central government to Tinkhundla (constituencies) areas and individual merit as a basis for election or appointment to public office.

10. Section 93 of the Constitution provides that the Legislature consists of a Senate and a House of Assembly. Presently the Senate consists of 30 senators, 20 of whom were appointed by the King and 10 elected by the House of Assembly. The House of Assembly comprises of 65 members. 55 members were elected by the public and 10 were appointed by the King. In 2013 Swaziland successfully held a second general election under the new constitutional dispensation.

11. In the 2013 elections cycle, 414,704 voters were registered to vote which is 70% of the voter population. Of these registered voters 230,571, voted which indicates a 56% voter turnout.

12. The electoral process with regard to participation of political parties is governed by Section 79 of the Constitution which has been further interpreted by the Supreme Court case of *Sithole NO and Others v The Prime Minister and Others, SC 50/2008*. Although the case pronounced that political parties are not allowed to field candidates, members of such parties can participate on individual merit. For example, in the current Parliament we have members who were elected to Parliament although they are members of political parties.

13. Swaziland is progressively moving towards honouring its reporting obligations to the treaty monitoring bodies. To this end, on 13 March 2012 Swaziland submitted its combined initial and second periodic reports to the Committee on the Elimination of All Forms of Discrimination Against Women. The Committee considered the combined reports on 10 July 2014. Currently the country has started working on its second periodic report to the Committee on the Rights of the Child.

14. On 24 September 2012 Swaziland implemented recommendations made in the first cycle of the UPR by ratifying the following international instruments:

(a) Convention on the Rights of Persons with Disabilities;

(b) Optional Protocol to the Convention on the Rights of Persons with Disabilities;

(c) Optional Protocol on the Convention on the Rights of the child on the involvement of children in armed conflict;

(d) Optional Protocol to the Convention on the Rights of the child on the sale of children child prostitution and child pornography.

15. Additionally, the country also ratified/ acceded to a number of regional and International human rights based instruments including but not limited to:

(a) Convention Against Organized Crime of (2000);

(b) Protocol Against Smuggling in Persons by Land, Sea and Air (2000);

(c) The Hague Convention on the Inter-country Adoption (1993).

16. The Commission on Human Rights and Public Administration now has a fully functional Secretariat with a staff complement of 8. The secretariat will enhance the Commission to achieve its constitutional mandate of promoting and protecting human rights, ensuring equitable access to public services for all and fostering leadership that is accountable to all people. In particular it is expected that the Commission will now

effectively deliver on its mandate and take appropriate action for the remedying, correction or reversal of instances of violation of fundamental rights and freedom under the Constitution, complaints of injustice, corruption, abuse of power and unfair treatment of any person by a public officer through such means as are fair, proper and effective.

17. The Commission has also secured office space, in the capital city Mbabane Office Park, which is more accessible to the public in particular members of vulnerable groups such as widows and the disabled, who would not easily access the offices of the Commission at Lobamba.

IV. Follow up to the last review: implementation of accepted recommendations

A. Treaty ratifications

Ratify the International Convention for the Protection of All Persons from Enforced Disappearance[1]

18. Swaziland signed the CED on 25 September 2007 but is yet to consider accession to this treaty.

Ratify the Rome Statute of the International Criminal Court[2]

19. Swaziland aligns itself with the decision taken by the Extraordinary Session of the Assembly of the African Union (AU) taken in Addis Ababa, Ethiopia in October 2013 that no charges shall be initiated or continued before any International Court against any serving AU Head of State or Government. Swaziland will consider acceding to the Rome Statute when article 27 of the statute is amended to allow for the immunity of a serving Head of State or Government.

Ratify the Optional Protocol to the Convention Against Torture[3]

20. Swaziland acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 25 April 2004. Further Section 18 of the Constitution prohibits torture and inhuman or degrading treatment or punishment. Given the country's commitment towards eradication of all forms of torture, there are ongoing efforts to take the optional protocol through the necessary steps of ratification as articulated by the Constitution in Section 238. The process entails approval of the instrument through an Act of Parliament or through a joint sitting of both chambers of parliament. Strengthening of structures like the Commission on Human rights is aimed at improving efforts to prevent and eradicate torture.

Ratify the International Convention on Protection of the Rights of All Migrant Workers and Members of their Families[4]

21. Swaziland is yet to consider ratifying the ICRMW.

B. Thematic human rights issues

Put in place a national mechanism for the prevention of torture as set out in CAT, specifically criminalise torture and put in place effective measures to prepare and punish any violations.[5]

22. As set out in CAT, the country has invested resources to strengthen the capacity of the Commission on Human rights to build the capacity of all duty bearers with the intention of preventing torture. The Commission as mandated by the Constitution is working on capacitating key government role actors and support setting up on structures that will provide sufficient redress to victims of torture.

Specifically criminalise torture and put in place effective measures to prevent and sanction the use of torture.[6]

23. As means to effectively address torture, the country is in the process of working towards a legislation that will systematically address the prevention and response to cases of torture.

Abrogate without delay the legislative and regulatory provisions that discriminate women, and adopt new laws in accordance with the principle of gender, as set out by CEDAW.[7]

24. To illustrate the country's commitment towards gender equality, over and above the ratification of CEDAW, the country has committed itself to a number of instruments to this effect. These include the African Charter on Human and Peoples Rights on the Rights of Women in Africa. Locally, these have been domesticated:

(a) The Deeds Registry Act was amended in 2012 to give effect to the rights of women married in community of property to own land and have it registered in their own names;

(b) The Sexual Offenses and Domestic Violence Bill seeks to address all forms of sexual violence against women and children. The Government of Swaziland is investing all necessary efforts to accelerate enactments by Parliament;

(c) The common law rule that married women had no capacity to litigate without the assistance of their husbands was declared inconsistent with the constitutional right to equality by the High Court in *Sihlongonyane and others v Sihlongonyane [2013 SZHC 144]*.

Take further measures to eliminate discriminatory cultural practises.[8]

25. Section 28 of the Constitution protects women from being subjected to cultural practises that they are in consequence opposed to.

Develop and implement a national strategy to eliminate stigma and discrimination against people living with HIV/AIDS, and ensure that OVC's have access to health and education services and protected from violence and abuse.[9]

26. Through the National Emergency Response Council on HIV/AIDS (NERCHA) the government of Swaziland reviewed the National Multi Sectoral strategic Framework for HIV and AIDS 2009-2014 and developed an extended National Multi Sectoral Strategic Framework 2014-2018. The framework guides the national response to HIV and AIDS. The strategy covers issues of prevention, treatment, impact and mitigation including addressing issues of stigma and discrimination.

27. Over and above the aforementioned strategy the country has also enacted Code of Good Practice on Industrial Relations which has specific provisions on HIV and AIDS. The objective of the HIV and AIDS provision is to eliminate discrimination in the workplace based on a person's HIV status.

28. The Government has rolled out a public health initiative in the public sector to contribute in the general health of her employees as well as address stigma and discrimination.

29. There has been a drastic scale up of Antiretroviral Therapy (ART) by the Ministry of Health (MoH). An increase in the number of ART sites from only 24 ART sites in 2006 to 133 by end of 2014. By the end of 2014, a total of 125,421 people on ART, with 7,906 (6%) being children under 14years. With an increase in the number of people on ART, a key priority for the MoH is to ensure that there is minimal deaths of people on ART. These figures demonstrate the survival rate of people on ART. In the past, the MoH was losing almost 60% of people within the first three months after initiating treatment (ARVs). This has improved over the years and from the figure it is worth noting that +/-3% are lost either through death, stoppage of treatment within the first six (6) months. Government continues to subsidise health care in public facilities.

30. The country enacted comprehensive protective legislation for children in 2012 (Child Protection and Welfare Act 2012). This legislation seeks to provide protection for children from abuse and to promote their welfare and best interests. Over and above this legislation, the country has a children's policy which also provides a clear position of the policy statements that illustrate prioritisation of the protection and promotion of children's rights, in particular vulnerable children. Under the strong government social protection program, government offers an Orphan and Vulnerable Children's (OVC) grant which caters for vulnerable children's education.

31. The government of Swaziland has ensured free primary education for all Swazi children as enshrined in the Constitution and the Free Primary Education Act, 2012. Even though secondary school education is still not free, the government supports the vulnerable children by paying their fees through the through the OVC grant under the Deputy Prime Minister's portfolio.

32. According to the Multiple Indicator Cluster Survey, (MICS) 2014, the percentage of orphans and vulnerable children stands at 45.1% of all children in the country. Orphans who attend school are at 97.2% as compared to 98.6% of attendance of non-orphans.

Put in place rights training programmes for members of the judiciary and law enforcement officials, including the Police, Security forces and Correctional Officers.[10]

33. Through support from Development partners, a number of duty bearers have been trained on protection of people's rights. Over the last 2 years, Judicial officers have been trained on the how to invoke international instruments ratified by the country in particular the Convention of the Rights of the Child. The Judicial officers were equipped with skills to ensure that they can properly handle cases involving children in their courts. The trainings covered Magistrates from all the regions in the country. Other officers of the court who support the cases were also extensively trained to better understand how to handle cases involving victims of abuse and children. These training have also been offered to prosecutors for reasons of consistency.

34. Over 230 Police officers were also trained on a manual that was developed to improve their capacity in handling cases involving families and vulnerable clients. The manual which will subsequently be part of the training of all police officers has a comprehensive chapter on International Human Rights framework and the implications to the duties.

35. The Commission on Human Rights is working with the Police to have a more comprehensive training on Human Rights as part of police training. There are also ongoing efforts from the Commission to ensure that the training is more systematic and will target all the relevant stakeholders including the Army and Correctional staff.

Take concrete and immediate measures to guarantee the independence and impartiality of the judiciary.[11]

36. Section 141 of the Constitution articulates the independence of the Judiciary in both its judicial and administrative functions, including financial administration. To this end there has been progressive steps taken towards ensuring the independence of the judiciary. These steps include security of tenure of all judicial officers and a transparent process of appointing Judges. In 2015 vacancies in the High Court bench were advertised and candidates were interviewed in public.

37. The Judiciary has a budget separate from the Ministry responsible for the administration of justice. The judges' remuneration is not subject to annual appropriation but is charged on the consolidated fund.

Align national legislation with the international standards to guarantee freedom of assembly and association, in particular as regards the notification of the organization of peaceful assemblies.[12]

38. The Public Order Act, 1963 which currently regulates the organization of peaceful assemblies is under review. The Government has drafted a new Public Order Bill which repeals the current Act. The Bill guarantees the freedom of peaceful assembly and expression. It also provides for amongst other things, notification and consultation in respect of public gatherings and the regulation of powers of the Police during public gatherings.

39. The Bill does away the requirement that organisers of a public meeting or public gathering have to obtain a permit from the Police. Conveners of meetings or gatherings will have to give the Police at least 7 days notice or in special circumstances not less than 48 hours where valid reasons are advanced on why the 7 days notice could not be given.

40. The notification will be followed by a consultation process between the Police, Local Authorities and the conveners or organisers. This is where logistics will be discussed and agreed upon. For example, routes to be used and the start and dispersal times of the gathering. The Police and the Local Authorities may set conditions to the conduct of a gathering where there are concerns of public order and safety.

41. The Police will only be able to prohibit a gathering where they are satisfied on reasonable grounds that the gathering will endanger public order and public safety and that no amendment, condition or arrangement can be set or made to prevent the threats. The Bill incorporates a provision for judicial review of a decision by the Police to prohibit a gathering.

42. The Public Order Bill was drafted with technical assistance from the International Labour Organisation (ILO). It has been submitted to the Attorney-General for scrutiny before it is tabled before Cabinet for consideration and approval.

43. Furthermore, the Government is in the process of amending the Suppression of Terrorism Act of 2008 to avert the hindrance on the exercise of freedom of association by workers' organizations. The amendment seeks to exclude employee organizations from the definition of the phrase 'terrorist group'.

44. The Government also amended the Industrial Relations Act, 2000 to allow for registration of workers and employer federations and thereby ensuring that workers and

business enjoy freedom of association as provided for under ILO Convention No. 87 concerning freedom of association and the right to organize. The amendment was effected through the promulgation of the Industrial Relations (Amendment) Act, 11 of 2014. Workers and Employer Federations have been duly registered and are part of the social dialogue forum and are represented in all consultative fora where legislative and policy decisions relating to their socio-economic interest are taken.

45. Acting in accordance with the ILO's recommendation to the effect that the Government of Swaziland gives the right to organize for Correctional Services employees, the Government has reviewed the law establishing the Correctional Services by, inter alia, including the right to organize for such employees in the amended Correctional Service law. A Bill to give effect to the right to organize for the employees has been tabled in Parliament and will be debated soon.

46. The Government has also tabled in Parliament a Bill titled "Public Service Bill" which amongst other things seeks to strengthen collective bargaining in the Public Service and to improve service delivery. Similarly, this Bill was drafted in consultation with tripartite constituencies and was reviewed by the ILO before being tabled.

Prohibit corporal punishment in all settings.[13]

47. Although the country did not accept the abolishment of corporal punishment in all settings, but limited it to adults, the Child Protection and Welfare Act has abolished the use of corporal punishment as sentence in cases involving children. Over and above this provision, the Ministry of Education has rolled out a program on Positive discipline and is working on revising its policies and rules to be in line with the principles of positive discipline. The Ministry has also partnered with civil society organisations to promote the use of positive discipline in family settings. This initiative is aimed at gradually incorporating these principles in the different settings where corporal punishment has been practiced.

Take immediate steps to repeal laws which criminalise and/or restrict freedom of expression and of media, in particular the Sedition and Subversive Activities Act (1938) the Proscribed Publications Act (1968).[14]

48. Section 24 of the Constitution guarantees freedom of expression including freedom of the media. The constitutionality of the Sedition and Subversive Activities Act, in so far as it implicates the right to freedom of expression is pending before the courts.

49. To further promote the enjoyment of freedom of expression, free media and operationalization of independent media houses, the Government of Swaziland has enacted the Swaziland Communications Commissions Act 2013. This Act establishes a Commission whose objectives are *inter alia*; to regulate electronic communications, data protection in electronic communications, postal services, electronic commerce and broadcasting.

Set up commissions of inquiry for all cases of deaths in custody which take place in the national police, the army and the penitentiary services.[15]

50. The Inquest Act provides for an automatic inquiry where a death has occurred in the custody of the state. In light of this Act, for all the deaths that have occurred, the state has commissioned independent inquiries to those deaths.

Strengthen the institutions established to protect democracy.[16]

51. The Government has invested resources towards strengthening relevant institutions that seek to protect democracy in Swaziland. The independence, mandate and powers of the

Commission on Human Rights and the Elections and Boundaries Commission are expressly articulated and guaranteed by the Constitution. Government has subsequently allocated resources towards staffing and working equipment to enhance the efficiency of these institutions. Swaziland is working on compliance with the Paris principles to facilitate accreditation of the Human Rights Commission and subsequently its capacity strengthening and efficiency.

52. The Anti-Corruption Commission is a statutory body established by the Prevention of Corruption Act. The Act mandates the Commission to prevent and eradicate corruption and further guarantees and protects its independence. The government has prioritised the fight against corruption and has committed to ensuring workable budget allocation and technical capacity to ensure the commission's efficiency and effectiveness. The improvement in the independent international rankings of the Commission is an indication of the progress that has been made towards improving efficiency.

Implement measures to prevent violence against the Lesbians Gays, Bisexual and Transgender (LGBT) community.[17]

53. In so far as violence against LGBT community is concerned, there has been no record or reported acts of violence.

Institute an urgent review of laws, Regulations and procedures relating to the use of force and firearms by law enforcement officials.[18]

54. The laws, regulations and procedures governing the use of force and firearms by law enforcement officials was reviewed and found to be consistent with international human rights norms.

55. The use of force and firearms including lethal force is governed by the Criminal Procedure And Evidence Act. The criminal procedure code permits law enforcement officers to use lethal force as measure of last resort where their lives are in danger. Non-lethal force is used where a person suspected of criminal conduct resists arrest or flees and cannot be apprehended or prevented from fleeing by means other than the use of force.

Repeal or urgently amend the Suppression of Terrorism Act of 2008 and other pieces of security legislation to bring them in line with international human rights standards.[19]

56. The Suppression of Terrorism Act is currently under review. To this end the government has drafted the Suppression of Terrorism (Amendment) Bill, 2013. The purpose of the bill is to amend the definition of "terrorist act" and to provide for incidental matters. The bill is presently before Cabinet and from there it will be tabled before Parliament.

57. In addition to the legislative process there is a pending constitutional case before the High Court. In this case the definition of "terrorist act" and "terrorist group" are being challenge on the ground that they are inconsistent with the right to freedom of assembly and the right to freedom of association guaranteed by Sections 24 and 25 of the Constitution.

V. Achievements and best practices, challenges and constraints

A. Achievements and best practices

58. Since 2011 the Swaziland Government has continued to formulate and implement policies aimed at improving the quality of life of everyone in the country. These policies include amongst others.

59. Free Primary Education (FPE) Programme: This programme is designed to remove barriers and increase access to primary education for all school-going age children. It provides relevant quality education and eliminates all forms of disparities and irregularities in primary education. It is calculated to eradicate illiteracy and to equip every child with basic skills and knowledge in an endeavor to alleviate poverty. This is in line with Section 29(6) of the Constitution of Swaziland, which guarantees the right to free primary education in public schools.

60. FPE was successfully rolled out from grades 1–2 in 2010, by 2015 it was extended to grade 7 in 2015. The enrolment rate has increased from 231,555 in 2009 to 239,422 in 2012 and 247,717 in 2015. Indicators suggest that Swaziland is on track in achieving universal access to primary education specified in Millennium Development Goal 2. Achievement of access is but one aspect of the progress, there is need to ensure that all children complete primary education. Completion rates at primary levels suggested that repetition and dropout may have still pushed some of the children out of the system. In 2006/2007 the completion rate was about 59.3 percent, it increased to 76.4% in 2012, suggesting that more children stayed on to complete primary education. This is an improvement, which implied that more children are being retained by the system.

61. FPE provides support to primary education in the form of grants, free stationery and textbooks for all primary school pupils including those with special needs. Furthermore, the Swaziland Government has invested an average of E 560.00 (US $80) capitation grant per child. What is observed is that although boys participated more efficiently in the past, girls had taken over as their net enrolment figures rose above that of boys in 2009 and have remained higher ever since. Learners with special needs also benefited from FPE initiatives through getting specialized teaching and learning material and equipment.

62. The programme has resulted in the construction of more schools and additional classrooms in most schools, in an effort to reduce traveling long distances. The programme has led to the engagement of additional teachers, approximately one hundred and ten (110) per year. The programme has created more posts for the inspectorate to monitor quality standards in schools. The posts includes those of inspectors for Special Education Needs.

63. In addition to FPE Swaziland's commendable progress in the achievement of universal primary education has been caused by the improvement in school feeding schemes and the increase in school infrastructure. Over 90% of schools have access to electricity and potable water.

64. The HIV and AIDS Programme: As part of improving prevention of HIV, there has been an increase in the number of people accessing Anti-Retroviral Therapy (ART) due to the introduction of immediate access to ART, treatment for pregnant and breastfeeding mothers in the country. This is aimed at further reducing transmission of infections among people in the country.

65. There has been a drastic scale-up of ART by the Ministry of Health (MoH). By the end of 2014, a total of 125,421 people were on ART, with 7,906 (6%) being children under 14 years. With an increase in the number of people on ART, a key priority for the MoH is

to ensure that those on ART stay alive. In this regard it is pleasing to note that ART retention for adults and children at 36 months is 78% and 83% respectively.

66. The percentage of HIV infected infants born to HIV positive mothers has continued to reduce from 16.4% in 2011 to 9.17 in 2014 with a target of reaching 5% by 2018. This is as a result of increased coverage on ART for pregnant and breastfeeding mothers. The Ministry is progressively rolling out early ART initiation for all pregnant and breastfeeding mothers who are HIV positive where they receive ART as soon as possible regardless of their CD4 count. ART is known to have a preventative effect on transmission of HIV.

67. There has been an increase in the proportion of children having access to HIV testing as early as 6 weeks, and the coverage has reached 81%. More than 80% of public facilities are now able to collect blood for early infant diagnosis of HIV. Early infant diagnosis of HIV has ensured that more children in need of ART are provided with ART, as a step towards Universal coverage for Children on ART by 2018. The Government remains committed to financing the procurement of antiretroviral drugs, catering for approximately 90% of the budget.

68. The country declared HIV as a national disaster in 1999. This led to the creation of the National Emergency Response Council on HIV and Aids (NERCHA) in 2003 which coordinates multisectoral action to ending AIDS by 2022. It also mobilizes the necessary resources for the national response hence 40% of total financial resources for HIV are mobilised by domestic sources (The Government of Swaziland and private sector).

69. During the Declaration period 2000–2014, the following Policies have been put in place to support the effective National HIV response:

(a) National Strategic Framework (NSF) 2009-2014 and Extended National Strategic Framework (ENSF) 2014-2018. These provide a blueprint for multi-sectoral action for HIV. The Objectives of the ENSF are to half HIV incidence rate, avert 15% deaths amongst People Living with HIV (PLHIV) and in particular those with TB/HIV co-infection, and alleviate socio-economic impacts of HIV and AIDS among vulnerable groups and to improve efficiency and effectiveness of the national response;

(b) Health Sector Strategic Plans I and II (HSSP I and II). These provide the strategic focus of the health sector service delivery system. The objective of the HSSP II is to reduce morbidity, disability and mortality that are due to disease and other social conditions; Promote effective allocation and management of health sector resources; and reduce the risk and vulnerability of the country's population to social welfare problems as well as the impact thereof;

(c) National Parliament Strategy on HIV and AIDS (2009-2014) and currently being reviewed and a new strategy would be developed covering the period 2016-2021. The objective is to enhance the engagement and effective participation of law makers in the national response to HIV and AIDS in Swaziland;

(d) 69.4 Swaziland National Social and Behaviour Change Communication Strategy (SBCC) – 2009–2014 to guide the implementation of structured HIV prevention services;

(e) Prevention of mother to child transmission (PMTCT): Swaziland has played a pivotal role in that by the end of 2004 there were only 4% of women receiving PMTC and by the end of 2014 it had increased to 86%. HIV infections amongst children have been reduced from 21.6% in 2006 to less than 10% by end of 2014;

(f) National Male Circumcision Policy (2009). The aim of the Policy is to scale up male circumcision as a proven HIV prevention strategy, alongside other prevention

interventions. Similarly a national male circumcision programme (2014–2018) has been developed to accelerate access scale male circumcision from 27% in 2014 to 80% by 2018;

(g) National Policy on Children (2009). The policy aims to ensure that appropriate interventions are put in place to adequately care for and protect children in general; and orphaned and vulnerable children in particular;

(h) HIV Treatment Guidelines (2003, 2008, 2011, 2014). These provide operating procedures for administering HIV treatment for people living with HIV in need of treatment. The country has now adopted test and treat policy and pilot studies are already underway. In a bid to further increase access to prevention services, the country has commissioned a scoping on the feasibility of introducing Pre Exposure Prophylaxis. Eligibility thresholds have been constantly expanded to current CD4 count 500 cells/mm3 and removed CD4 eligibility and WHO criteria for certain population groups;

(i) Draft Swaziland HIV Investment Case. This is a pathway towards the national vision of attaining an AIDS-free Swaziland by 2022, which is also aligned to the global objective of ending AIDS by 2030;

(j) An assessment on National Legal and Regulatory Framework for HIV/ AIDS in Swaziland was conducted by UNDP in 2014. Findings of the report show that Swaziland has taken positive measures towards the alignment of local laws and regulations that provides for human rights protection for every citizen from unfair discrimination which would include people living with HIV/AIDS. This is evidenced through the Parliamentary Bills as well as HIV/AIDS policies and frameworks. There is also evidence of the country's commitment to align to international norms as well as regional declarations that seek to protect rights of people living with HIV/AIDS. There country has laws that protect citizens from stigmatization and discrimination on the basis of HIV status. These include the National Constitution, Labour Policy and Sector Policies that are derived largely from the national and international documents.

70. The Malaria Prevention Programme: Swaziland continues to do well in response to malaria with the country being recognized for its leadership and efforts in malaria response by the African Union Certification of Malaria Elimination by 2018. A lot of progress has been made since adoption of the elimination strategy in 2009, and there has been a significant decrease in the number of malaria cases and deaths reported by the different health facilities. A strategic plan 2015-2020 has been developed to guide the country after achieving malaria elimination in 2015 up until WHO certification in 2018 and beyond.

71. In recognition and celebration of the country's achievements in the fight against Malaria, Global Malaria Experts known as the Malaria Elimination group held its tenth meeting in Swaziland in November 2015, where it was concluded that the country is likely to be the first in eliminating malaria in Southern Africa. Hence the country remains committed to strengthening the elimination agenda.

72. Both the incidence and deaths rates of malaria in the country have significantly dropped as the country draws closer to elimination. The success could be attributed to:

(a) The strengthened health facility mentoring and monitoring visits by the programme to ensure adherence to the National Diagnosis and Treatment guidelines by health care workers;

(b) The strong management and resource mobilisation mechanism which has enabled the programme to secure resources up to 2018;

(c) The introduction of active case surveillance of all confirmed cases by the programme. Cases are followed up immediately after confirmation before possibilities of onward transmission;

(d) The consistent Indoor Residual Spraying coverage of above 90% annually.

73. Promotion of Gender Equality and Empowerment of Women: The Government has made significant strides in policy and legislative reform in addressing the challenges of gender based violence in the country evidenced by the approval of the National Gender Policy of 2010, the enactment of People Trafficking and People Smuggling Act, as well as the Child Protection and Welfare Act of 2012. Implementation of these legal frameworks included; construction of child friendly courts, toll free lines, establishment of the Domestic Violence and Victims support Centres in police stations, establishment of one stop centres (to provide care and support for gender based violence survivors).

74. Environmental Sustainability: The country has made substantial progress in accessing safe drinking water by the population. The proportion of people with access to safe drinking water has increased by 16% from 56.4 percent in 1997 to 72.4 percent in 2014 at national level. The improvement is observed in both the rural and urban areas. In 2014, 63.4 percent of the rural population had access to improved water sources compared to 95.8 percent for urban areas. As of 2014, the proportion of the population estimated to have access to electricity is 65 percent. Urban and rural households had electricity access of 83.8 percent and 53.8 percent, respectively.

75. Other factors leading to the achievements in environmental sustainability include increased usage of clean water supply, establishment of rural electrification programme to provide electricity to schools, health facilities, essential public institutions and communities as well as the reduction in consumption of carbon emissions.

B. Challenges and constraints

76. Free Primary Education: Despite the success of the programme in increasing enrolment rates, challenges remain. In some cases there was a wide range in the ages of the children that were enrolled and this offered some teaching frustrations as the levels of development of the children varied greatly. The removal of all barriers to access primary education had not been fully realized; some children are still not in school. There are social factors that still hinder some children's access to education and these include issues of uniform, child headed families where food and other amenities are not easily accessed. The Ministry is working hard to ensure that these issues are addressed through the Care and Support to Teaching and Learning (CSTL) programme.

77. The high demand for primary education created a need for additional teachers. However, there was a shortage of appropriately qualified teachers. According to the Annual Education Census Report (2010), 25% of the primary school teaching staff was not appropriately qualified to teach at that level. This necessitated the deployment of irrelevantly qualified teachers into the primary level, mainly teachers qualified for the secondary level, thus compromising the quality of education. This is because in Swaziland secondary level teachers at times take a single major and cannot offer all the subjects like primary trained teachers, importantly, they do not possess the pedagogy skills to teach children between ages of 6 to 18 years in one class in some cases.

78. Intake rates also imply some policy shifts. Swaziland witnessed an increase in Early Childhood Care and Education (ECCE) centres during the 2010-2015 period which influenced some primary schools to begin demanding a child to have a pre-primary experience before they enrolled them. The Completion cycle of children enrolled has not been fully realized; a sizeable number of children have not reached grade 7. Out of 40,000 enrolled, about 27,000 sat for Swaziland Primary Certificate (SPC) examinations.

79. The education and training sector faced serious budgetary constraints in the beginning of financial year 2008/9 following the global meltdown which led to budget cuts

and a declining share for the sector. Since then, economic growth remained stagnant which was an indication that spending in education is not likely to improve in the near future. The Ministry of Education and Training (MoET) budget increase from the previous years is only barely sufficient to keep pace with the r[illegible] of inflation. The significant increase in total enrolments in the education and training sector represent a decline in expenditure per student in real terms.

80. As Government took over the payment of fees, schools' income gradually declined in some schools which were previously charging above the government approved grant per learner. This has unfortunately led to a phenomenon where schools were charging a 'top-up' fee alleging that the Government grant is not enough. This has created problems for Government as those marginalized children who had entered under FPE are being gradually forced out of the system by the charging of top-up fees. However, the Government is looking into this issue with an aim of coming up with a lasting solution.

81. None adherence by schools to policy on repetition and admission: There is a high repetition rate at primary level which counters the effectiveness of the FPE programme. In 2012 there were about 40 000 learners repeating and these represents 16% of the total enrolment. This is about the total enrolment of a grade, which suggests that each year the FPE goes to the next grade, about the same number of learners repeat, which is a waste.

82. Mainstreaming Special Education Needs: A majority of teachers in primary schools are still not yet capacitated to support learners with special needs. Furthermore, the teaching and learning material and equipment is still not enough to cater for all the learners enrolled.

83. Lastly the disparities in rural and urban schools result in rural to urban migration. This results in high teacher pupil ratio in urban schools to the extent of 1:60.

84. The HIV and Aids Programme: Funding for the National response is inadequate to implement all required action. The National response is funded by two main external donors: The Global Fund to fight Aids, Tuberculosis and Malaria and the United States President's Emergency Plan for Aids Relief (PEPFAR).The dependency on these two main external donors creates concerns about the sustainability of the national response. This challenge can be overcome by strengthening public – private partnership for a more robust social responsibility by private companies.

85. The systems for appropriate resource allocation are insufficient. The National AIDS Spending Account (2011) reported that approximately 41% of the total funding in the last fiscal year was spent on coordination and management, followed by treatment, care and support (26%), and impact mitigation (25%). HIV prevention which is the key priority for Swaziland consumed only 8% of total expenditure.

86. The global economic and financial crisis has had an impact in the wellbeing of people in Swaziland just like many other countries. With the job losses that the country has experienced because of the financial crisis, some of the survival mechanisms that people have resorted to are leading to new HIV infections. This is further compromised by the prevailing drought situation.

87. The Malaria Prevention Programme. Low incidence of malaria in the country poses as a threat towards health seeking behavior as people no longer regard it as a threat.

88. Global warming, resurgence of malaria in areas that did not have malaria in the past 5–10 years.

VI. Key national priorities

89. Providing Quality Education And Lifelong Learning: In taking the education development agenda forward, the Government in collaboration with the World Bank and the European Union (through the Support to Education and Training (SET), undertook a comprehensive Education Sector Review in 2009. The aim was to amass critical knowledge on how the sector could be restructured so that it supports accelerated growth, reduces poverty and enhances the standards of living of the people of Swaziland. The Review has assisted the Education Sector to consolidate its priorities and has created a key information base for development of two key documents:

(a) Education Sector Strategic Plan (ESSP) in 2010; and

(b) Education and Training Sector Policy in 2011.

90. These policy documents provide a strategic and visionary framework for the sector and support the wider context of Vision 2022. The objective is to provide an equitable and inclusive education system that affords all Swazi citizens access to free primary education of real quality, followed by opportunities of life-long education and training, thus enhancing personal development and contributing to Swaziland's cultural development, socio-economic growth and global competitiveness. The Education Sector Strategic Plan (ESSP) is long term, covering the period from 2010 to 2022. It covers key sub-sectors including Early Childhood Care and Education (ECCE), General Education (Primary and Secondary Education), Technical and Vocational Education and Training (TVET), Higher Education, and Adult and Non-Formal Education.

91. With support from the EU SET programme and other partners, Government has developed an action plan to facilitate the implementation of the ESSP and the Sector policy. This action plan is referred to as the National Education and Training Improvement Programme (NETIP) and its focus is to clearly articulate education sector (EDSEC) activities within the short-term period of one to three years.

92. The MoET is undertaking a curriculum reform to ensure that competency based education is introduced in the system. This is a skill based education of ensuring the provision of quality education. The Swaziland National Higher Education Council has been established which will focus on issues of quality education in higher learning. The National Qualification Framework is being developed which will direct and analyze skills to be taught and developed to contribute to the development of the country.

93. Eradication of Poverty: Despite the diversity and complexity of the challenges, the Government and people of Swaziland remained firm and determined to reverse the situation and advance development forward by tracking the economy back into the right and sustainable path. Seeing that Swaziland's best asset is her people, Government has introduced a number of measures aimed at safeguarding the lives and livelihoods of the poor and vulnerable groups while at the same time keeping intact sound mechanisms to accelerate economic growth and recovery.

94. Innovative and creative programmes that selectively target vulnerable groups such as orphans, women, children and the elderly were put in place to rectify social imbalances and meet the pre-set targets for 2015. These included: establishment of the Youth Enterprise Fund, Regional Development Fund, Poverty Reduction Fund, subsidising farming inputs, establishment of Orphans and Vulnerable Children (OVC) grant, the elderly grant, Free Primary Education (FPE), Free Ante- and Post Natal Care for women, & children and Medical Phalala fund. Furthermore, measures to promote youth employment, regional and agricultural development as well as commercialization and women's empowerment were introduced.

95. Ensuring Healthy Lives. To ensure healthy lives the Health sector has developed the Health Sector Strategic Plan 2014-2018. This plan highlights priority areas that are addressed under five broad thematic areas, that will take into account the newly agreed Sustainable development goals:

(a) *Promoting health through the life course*. A focus on promoting health through the life-course calls for addressing the barriers to good health that occur throughout gestation, childhood, adolescence, adulthood and elderly phases of life. The health sector intends to introduce and scale up a range of interventions aimed at promoting health throughout the life course. It intends to achieve this by focusing on enhancing the integrated approach to delivery of child and maternal survival services; providing a male-tailored Essential Preventive Health Service Package; promoting understanding and practice of healthy ageing for men and women; making physical Exercise for All (E4A) a popular sustained national campaign; as well as promoting, protecting and supporting appropriate infant and young child feeding practices and behaviours with focus on the first 1000 critical days.

(b) *Prevention and Control of Communicable and Non-Communicable conditions*. Swaziland is faced with a double disease burden, where majority deaths are due to communicable diseases. Figures show an increase in the non-communicable diseases warranting the need to continue to focus on the prevention and control of both communicable and non-communicable diseases. The health sector intends to move towards universal health coverage with critical interventions addressing communicable and non-communicable conditions.

(c) *Influencing health action in key sectors*. Many factors outside the health arena affect the health of individuals and the communities they live in. Such factors include environmental, cultural and socio-economic influences. The health sector intends to develop relevant strategies to guide its work with health-related sectors so as to achieve the prioritization and implementation of critical health-related actions. Since such actions fall within the mandate of other sectors, but have a significant influence on health outcomes, the health sector will build linkages with the sectors responsible for these actions so as to work with them and ensure that the actions are properly implemented to achieve better health outcomes. This will include addressing issues of access to safe water, improving sanitation, access to education for young girls, access to proper housing ventilation and work place safety measures.

(d) *Managing medical and related conditions*. Providing medical care for medical conditions is often complex as patients require multiple resources, treatments and providers and it continues to be the core priority and mandate of the MoH. Special efforts will be paid to increasing access to specialist care through a number of strategies including Private Public Partnership (PPC), construction of National Referral hospitals as well as utilising technology to advance medical care. The health sector intends to provide high quality services by ensuring that all clients are attended to by a sufficient number of qualified, competent and skilled health personnel with the right skill mix. Improving infrastructure, equipment and supplies is also one area to be considered in providing quality services.

(e) *Rehabilitation following health events*. Rehabilitation is a set of measures that assist individuals who experience or are likely to experience disability to achieve and maintain optimal functioning in interaction with their environment. When provided on a continuum of care ranging from hospital care to rehabilitation in the community, rehabilitation can improve health outcomes, reduce cost by shortening hospital stay, reduce disability and improve quality of life for individuals and their family.

(f) Rehabilitative services focus on returning patients to near-normal health following an illness episode, and where restoration to health is not possible, they help in managing the terminal illness in the most humane manner possible for the patient and the family. Rehabilitative services are inclusive of six programmatic services, namely:

(i) physiotherapy;

(ii) occupational therapy;

(iii) speech therapy;

(iv) audiology;

(v) dietetics; and

(vi) orthopaedic technology.

(g) Palliative care aims at improving the quality of life of patients and families facing problems associated with life-threatening illness by focusing on the prevention and relief of pain, suffering and loss of functional ability in all spheres of life.

(h) The sector intends to scale up access to rehabilitative services to ensure that clients needing such services are able to access them. This requires that all facilities have access to these services as well as the attendant infrastructure and resources. The focus is on providing quality rehabilitative, palliative and forensic services and ensuring that rehabilitative and palliative care services are sufficiently decentralized, as per the Essential Health Care Package (EHCP).

VII. Expectations in terms of capacity building and technical assistance

96. In a bid to continue implementation of the accepted recommendations, domestic and international obligations, the Government requires technical assistance and capacity building in the following spheres:

(a) Capacity building in treaty-body reporting, following up on concluding observations and recommendations of special procedures and mechanisms of the United Nations including national monitoring of the implementation of international human rights treaties;

(b) Human rights training programmes for members of the judiciary and the disciplined forces on a continuous basis;

(c) Assisting the Commission on Human Rights and Public Administration in implementing its strategic plan;

(d) Mounting of public awareness campaigns on human rights and developing advocacy materials;

(e) Strengthening of institutions established to protect democracy such as the Elections and Boundaries Commission, the Anti-Corruption Commission and the Commission on Human Rights and Public Administration.

Notes

[1] Recommendation 77.1, 77.10 and 77.11 – France, Spain and Argentina.
[2] Recommendation 77.1,77.7 and 77.9 – France, Slovenia and Brazil.
[3] Recommendations 77.2,77.12, and 77.13 – France, United Kingdom and Holy Sea.
[4] Recommendations 77.11, 77.15, and 77.36 – Argentina and Burkina Faso.
[5] Recommendations 77.2,77.25, 77.27,77.34,77.35,77.44 and 77.46 – France, Space, Slovakia, Switzerland, United Kingdom and Norway.
[6] Recommendation 77.25 – France.
[7] Recommendation 77.20 – France.
[8] Recommendation 77.22 – Ghana.
[9] Recommendation 76.17 – Canada and 76.6 – Hungary.
[10] Recommendation 76.35 – Canada.
[11] Recommendation 76.36 – Canada.
[12] Recommendation 77.49 – Hungary and Norway, Recommendation 77.50 – Slovakia.
[13] Recommendation 77.31 and 77.38 – Slovenia and Uruguay.
[14] Recommendation 77.54 – Norway.
[15] Recommendation 77.28 – Switzerland.
[16] Recommendation 77.76 – South Africa.
[17] Recommendation 77.47 – United States of America.
[18] Recommendation 77.36 – Sweden.
[19] Recommendation 77.57 – Sweden.

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Swaziland

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

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Please recycle

I. Background and framework

A. Scope of international obligations[1]

1. International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified not accepted*
Ratification, accession or succession	ICERD (1969)	OP-CRC-AC (2012)	ICCPR-OP 2
	ICESCR (2004)	OP-CRC-SC (2012)	OP-CAT
	ICCPR (2004)	CRPD (2012)	ICRMW
	CEDAW (2004)		ICPPED (signature, 2007)
	CAT (2004)		
	CRC (1995)		
Reservations and/or declarations	CRC (declaration, art. 4, 1995)	OP-CRC-AC (declaration, art. 3, 2012)	
Complaints procedures, inquiries and urgent action[3]	CAT, arts. 20 (2004)	OP-CRPD, art. 6 (2012)	ICERD, art. 14
			CAT, arts. 21 and 22
			OP-ICESCR
			ICCPR, art. 41
			ICCPR-OP 1
			OP-CEDAW
			OP-CRC-IC
			ICRMW
			ICPPED

1. In 2014, the Committee on the Elimination of Discrimination against Women encouraged Swaziland to ratify OP-CEDAW and to consider ratifying ICPPED and ICRMW.[4]

2. The United Nations country team noted that, in 2012, the country had ratified 29 international instruments, which included the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.[5]

2. Other main relevant international instruments

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession			Convention on the Prevention and Punishment of the Crime of Genocide
			Rome Statute of the International Criminal Court
			Palermo Protocol[6]
	Conventions on refugees and stateless persons[7]		
	Geneva Conventions of 12 August 1949 and Additional Protocols I and II[8]		Additional Protocol III to the 1949 Geneva Conventions[9]
	ILO fundamental conventions[10]		
			ILO Conventions Nos. 169 and 189[11]
	Convention against Discrimination in Education		

B. Constitutional and legislative framework

3. Acknowledging that progress had been made regarding the ratification of key human rights instruments, the country team noted that the implementation of those instruments remained a challenge.[12]

4. Noting that there was no systematic law and policy reform effort to ensure the timely harmonization of national laws and policies with the provisions of the Constitution,[13] the country team recommended that Swaziland carry out a reform exercise to align its laws with the Constitution and human rights instruments.[14]

5. The country team recalled that, in 2011, it had been recommended that Swaziland repeal or amend the Suppression of Terrorism Act of 2008, the Sedition and Subversive Activities Act of 1938, the Proscribed Publications Act of 1968 and other pieces of security legislation, to bring them into accordance with international human rights standards.[15] It reported that, in 2015, the Government had initiated the review of the Suppression of Terrorism Act.[16] The International Labour Organization (ILO) Committee on the Application of Standards noted that the Government was also amending the Public Order Act of 1965.[17]

6. The Committee on the Elimination of Discrimination against Women noted with concern that a number of draft laws and policies with an important bearing on women's rights, such as the bills on marriage, administration of estates, transnational crime, employment, legal aid, sexual offences and domestic violence and land policy, were still pending. It recommended that Swaziland urgently adopt the laws and policies that are pending.[18]

7. The Committee on the Elimination of Discrimination against Women called upon Swaziland to establish a law review commission, which should conduct a gender analysis of its laws with a view to harmonizing them with the Convention.[19]

8. The Committee on the Elimination of Discrimination against Women called upon Swaziland to adopt a comprehensive legal definition of discrimination against women in line with the Convention, covering all prohibited grounds of discrimination.[20]

9. The Committee on the Elimination of Discrimination against Women regretted that section 28 (2) of the Constitution stated that the provision of the facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement was subject to availability of resources. It called upon Swaziland to review that section so that it complies with the immediate nature of the obligation to realize rights under the Convention.[21]

10. In 2011, the Working Group on the issue of discrimination against women in law and in practice sent a letter to Swaziland concerning discriminatory provisions against women in nationality legislation. According to the information received, legislation discriminated against women in that they were not able to confer their Swazi nationality to their children. Reportedly, according to the 2005 Constitution, children born inside or outside of Swaziland prior to 2005 to at least one Swazi parent acquired Swazi citizenship, but children born after 2005 only acquired citizenship from Swazi fathers.[22]

11. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Swaziland amend its nationality law to include a safeguard to ensure that children born on the territory who would otherwise be stateless automatically acquire Swazi nationality; amend articles 43 and 44 of its Constitution so that Swazi women can transfer nationality to their children and their foreign spouse on the same basis as men; and consider undertaking a study or survey to identify the number of stateless people in the country.[23]

12. UNHCR stated that, as regarded the prevention and reduction of statelessness, the national legislation did not yet fully implement domestically the international legal obligations of Swaziland.[24]

13. UNHCR noted that the 2015 Refugee Bill was expected to be presented in Parliament in the near future, although an exact date had not yet been set. It commended Swaziland for introducing a new refugee definition and new provisions on the rights and duties of refugees.[25]

14. Noting that article 15 of the Refugee Bill could result in refugees and asylum seekers being arbitrarily deprived of the right to freedom of movement, UNHCR recommended that Swaziland allow asylum seekers and refugees to continue enjoying freedom of movement and residence in the country, in accordance with its international obligations.[26]

15. UNHCR recommended that Swaziland insert the principle of the best interest of the child as a horizontal provision in the 2015 Refugee Bill and incorporate the full wording of article 3 (1) of CRC.[27]

C. Institutional and human rights infrastructure and policy measures

16. The country team reported that the administration of human rights fell within the jurisdiction of the Ministry of Justice and Constitutional Affairs.[28]

17. Indicating that the Constitution created a number of key human rights institutions, including the Human Rights and Public Administration Commission, the country team mentioned that the main functions of the Commission included investigating human rights violations, receiving complaints of injustice, corruption and abuse of power in office and taking appropriate action to remedy and correct those violations.[29]

18. Recalling that several recommendations from the first universal periodic review of Swaziland had focused on strengthening the capacity, functionality, independence and legal framework of the Human Rights Public Administration Commission to ensure conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) as a national human rights institution,[30] the country team noted that, in 2015, the Commission's Secretariat had been strengthened through the appointment of a chief executive officer, a legal officer and three human rights examiners. It added that, for improved accessibility, the Commission's office had been relocated to Mbabane.[31]

19. The Committee on the Elimination of Discrimination against Women noted that the Gender and Family Issues Unit had been elevated to a department within the Office of the Deputy Prime Minister, but was concerned that it was extremely underresourced in both human and financial terms. The Committee recommended that Swaziland provide adequate financial and human resources to the Department.[32] The country team made a similar recommendation.[33]

20. Recalling that, in its 2011 review, Swaziland had received recommendations regarding the development and adoption of a national human rights strategy and action plan,[34] the country team recommended that Swaziland develop and institutionalize the national mechanism for the implementation of national policies and finalize, adopt and implement the National Strategy and Action Plan to End Violence, the Social Protection Strategy and Action Plan and the Land Policy. It also recommended implementing the National Disaster Management Act and strengthening the National Disaster Management Authority.[35]

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
Committee on the Elimination of Racial Discrimination	March 1997	-	-	Combined fifteenth to nineteenth reports overdue since 2006
Committee on Economic, Social and Cultural Rights	-	-	-	Initial report overdue since 2006
Human Rights Committee	-	-	-	Initial report overdue since 2005
Committee on the Elimination of Discrimination against Women	-	2012	July 2014	Third report due 2018

Committee against Torture	-	-	-	Initial report overdue since 2005
Committee on the Rights of the Child	September 2006	-	-	Combined second to fourth reports overdue since 2011; initial reports on OP-CRC-AC and OP-CRC-SC overdue since 2014
Committee on the Rights of Persons with Disabilities	-	-	-	Initial report overdue since 2014

21. The Committee on the Elimination of Discrimination against Women recommended that Swaziland consider seeking international assistance and avail itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the Committee's recommendations and the Convention as a whole. It also called upon Swaziland to continue its cooperation with the specialized agencies and programmes of the United Nations system.[36]

22. The country team indicated that Swaziland had been encouraged to identify its needs for technical and financial assistance to catch up on the backlog accumulated in the submission of reports to treaty bodies, and to make use of the technical support from the Office of the United Nations High Commissioner for Human Rights (OHCHR) to finalize its overdue reports.[37]

23. The country team recommended that Swaziland establish a government-led human rights monitoring mechanism to ensure adherence to, reporting on and implementation of international human rights commitments and recommendations.[38]

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
Committee on the Elimination of Discrimination against Women	2016	Adoption of a comprehensive legal definition of discrimination against women; sexual offences and domestic violence[39]	-

B. Cooperation with special procedures[40]

	Status during previous cycle	*Current status*
Standing invitation	No	No
Visits undertaken		
Visits agreed to in principle		
Visits requested	Freedom of expression	Independence of judges and lawyers
		Safe drinking water and sanitation

	Freedom of opinion
	Albinism
Responses to letters of allegation and urgent appeals	During the period under review, eight communications were sent. The Government replied to one communication.

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

24. In 2014 and 2015, the OHCHR Regional Office for Southern Africa carried out missions to Swaziland to provide technical assistance on the human rights-based approach in the United Nations Development Assistance Framework/United Nations Partnership Framework and selected other United Nations programmes.[41]

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

25. The country team noted that chapter IV of the Constitution governed issues of citizenship, providing for different treatment between men and women regarding acquisition of citizenship through marriage, transfer of citizenship through descent and renunciation of citizenship.[42]

26. The country team recalled that, in the 2011 review, it had been recommended that Swaziland review all national policies and legislation that violated the principle of equality and non-discrimination; abrogate legislative and regulatory provisions that discriminated against women; and adopt new laws in accordance with the principle of gender equality and non-discrimination as set out in CEDAW.[43]

27. The Committee on the Elimination of Discrimination against Women noted the efforts of Swaziland to tackle challenges relating to its nationality legislation, but expressed concerns that both the Constitution and the Citizenship Act contained provisions depriving children born to Swazi women and foreign husbands of nationality.[44]

28. The country team stated that no systematic national legislative and policy reform process had been established to align all laws and policies with the principle of equality and non-discrimination as stated in the Constitution, and as espoused in CEDAW.[45]

29. According to the country team, most women still faced hindrances in acquiring land through the customary laws and structures. Women's access to land under the traditional land tenure system was largely dependent on the practices, norms, values and judgements of individual traditional leaders and was not regulated or informed by any national land policy.[46]

30. The Committee on the Elimination of Discrimination against Women recommended that Swaziland repeal the discriminatory provisions in the Constitution and the Citizenship Act.[47] It also recommended repealing the doctrine of marital power in order to ensure that women have identical legal capacity to that of men to conclude contracts and to administer property, as well as to sue or to be sued.[48]

31. The Committee on the Elimination of Discrimination against Women was concerned at the persistence of adverse cultural practices and traditions and patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and in society. It urged Swaziland to intensify media and other efforts to educate the public and raise awareness about existing sex-based stereotypes with a view to eliminating them.[49]

B. Right to life, liberty and security of the person

32. Concerned at the gruesome murders of women and girls with albinism, whose body parts were harvested for rituals, the Committee on the Elimination of Discrimination against Women recommended that Swaziland urgently establish a national register of persons with albinism and provide protection to women and girls with albinism.[50]

33. The country team stated that national police statistics showed that the incidence of violence (particularly physical and sexual violence against women and children) remained unacceptably high.[51]

34. Deeply concerned that the Bill on Sexual Offences and Domestic Violence had lapsed because it did not receive royal assent, the Committee on the Elimination of Discrimination against Women urged Swaziland to enact into law the Bill without further delay and ensure that it is comprehensive.[52]

35. The Committee on the Elimination of Discrimination against Women also urged Swaziland to establish a national violence coordination mechanism with a mandate to tackle all forms of violence against women and girls and to coordinate national efforts to prevent and eliminate such violence.[53]

36. The Committee on the Elimination of Discrimination against Women urged Swaziland to encourage reporting of domestic and sexual violence against women and girls, to ensure that complaints are effectively investigated and perpetrators punished with sanctions commensurate with the gravity of the offence and to address the culture of impunity.[54]

37. Concerned about the widespread cases of abuse of and sexual violence against girls in schools by teachers and when travelling to and from school, the Committee on the Elimination of Discrimination against Women recommended that Swaziland adopt measures to prevent and eliminate all abuse of and sexual violence against girls in schools and ensure that perpetrators are adequately punished.[55]

38. Noting that shelters remained inadequate for and inaccessible to women and girls in regions away from the capital, the Committee on the Elimination of Discrimination against Women urged Swaziland to decentralize one-stop centres and shelters to the four regions of the country in order to ensure that women and girls who are victims of violence can gain access to them.[56]

39. Concerned at the lack of programmes aimed at addressing prostitution, including exit programmes, the Committee on the Elimination of Discrimination against Women recommended that Swaziland provide data on existing programmes aimed at addressing prostitution and on implementing exit programmes for women who wish to leave prostitution.[57]

40. The country team recalled that, in its first review, Swaziland had received recommendations regarding the rights of children that focused on the acceleration of the enactment of the Child Protection and Welfare Bill and the strengthening of the functionality of the country's juvenile justice system to ensure that it complied with acceptable international standards.[58]

41. The country team noted that, in 2012, Swaziland had incorporated CRC into its national legislation, by enacting the Children's Protection and Welfare Act, to improve the legal and institutional frameworks necessary for the protection of children. The Act provided a wide range of protective measures for children, including the establishment and strengthening of national and community structures for the protection and care of children, the setting up of child-sensitive juvenile justice systems and protection from all forms of abuse and exploitation.[59]

42. According to the country team, challenges in the implementation of the Act still remained. It stated that the protocols to the Act had not yet been developed, that not all Government sectors had the capacity and/or necessary resources to implement the Act and that a strong centralized coordination and monitoring of the implementation process was missing.[60]

43. In 2013, the ILO Committee of Experts on the Application of Conventions and Recommendations requested Swaziland to indicate whether any cases had been brought before the court about the customary practice of forced labour called *kuhlehla* and provide information on the measures taken to formally repeal Swazi Administration Order No. 6 of 1998 concerning the duty of Swazis to obey orders requiring participation in compulsory works, such as compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, which was enforceable with severe penalties for non-compliance.[61]

44. Concerned about the lack of appropriate measures to criminalize corporal punishment and prevent its use in all settings, especially schools, the Committee on the Elimination of Discrimination against Women recommended that Swaziland prohibit corporal punishment and adopt measures aimed at eliminating its use in all settings and promote the use of non-violent forms of discipline.[62]

45. While welcoming the adoption of the People Trafficking and People Smuggling (Prohibition) Act in 2009, the Committee on the Elimination of Discrimination against Women recommended that Swaziland intensify efforts to tackle the root causes of trafficking in women and girls and ensure the rehabilitation and social integration of victims.[63] It also recommended stepping up efforts aimed at bilateral, regional and international cooperation to prevent trafficking.[64] Finally, it recommended that Swaziland increase awareness-raising efforts aimed at promoting reporting of trafficking crimes and early detection of women and girls who are victims of trafficking.[65]

C. Administration of justice and the rule of law

46. Recalling that the 2011 recommendations had focused on the establishment of concrete and immediate measures to guarantee the independence and the impartiality of the judiciary and the improvement of conditions in prisons and detentions centres,[66] the country team noted recent efforts by the Government to improve transparency in the recruitment of judicial officers. Those efforts included the advertisement for and appointment of four judges of the High Court, bringing the number of judges to 17, although none were women.[67]

47. The country team noted that the Legal Aid Policy and the Legal Aid Bill had not yet been tabled in Cabinet for approval.[68]

48. The Committee on the Elimination of Discrimination against Women was concerned that there was no legal aid scheme in Swaziland and that complex legal procedures, exorbitant legal fees and the geographical inaccessibility of courts impeded women's access to justice. It recommended that Swaziland ensure that women, especially those belonging to disadvantaged groups, have effective access to justice in all parts of the country.[69] The

country team recommended establishing a government-led and funded national legal aid facility to provide enhanced access to justice for the poor and vulnerable, as well as the finalization and adoption of the Legal Aid Policy.[70]

49. The country team noted that, during the first review, it had been recommended that Swaziland intensify the training programmes for the personnel responsible for law enforcement and develop and implement human rights training programmes for members of the judiciary and law enforcement officials, including the police, security forces and correctional officers.[71]

50. The Committee on the Elimination of Discrimination against Women was concerned at reports that perpetrators of murders of girls and women with albinism were prosecuted for less serious crimes, such as causing grievous bodily harm, and therefore received lenient sentences upon conviction. It recommended that Swaziland ensure that all complaints relating to violence against women and girls with albinism are effectively investigated and perpetrators prosecuted and punished with appropriate sanctions upon conviction.[72]

51. According to the country team, the juvenile justice system remained largely unchanged and no comprehensive assessment had been conducted.[73]

D. Right to marriage and family life

52. The Committee on the Elimination of Discrimination against Women urged Swaziland to take effective legal measures to prohibit and eliminate child and/or forced marriage and abolish polygamy.[74]

53. The Committee on the Elimination of Discrimination against Women was concerned that Swaziland retained the "fault" principle under its divorce law and that there was a lack of information on the economic impact of the principle on women during the division of matrimonial property, in particular when women were found to be at fault in a divorce case. The Committee called upon Swaziland to separate the fault-based divorce grounds and the distribution of marital property.[75]

E. Freedom of expression, association and peaceful assembly, and the right to participate in public and political life

54. The country team recalled that, in 2011, recommendations made to Swaziland included: ensuring the respect of the rights of all Swazi citizens to freedom of assembly, association and expression, particularly by allowing labour, political and civil society groups to assemble peacefully; easing the legislative and administrative restrictions on the registration and operation of independent media; and developing a legal framework that guaranteed media freedom.[76]

55. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recalled that freedom of expression was enshrined in article 24 of the Constitution of Swaziland and could only be restricted if in the interest of defence, public safety, order, morality or health. However, the King had absolute power to interfere and to suspend the constitutional rights at his discretion.[77]

56. UNESCO recommended that Swaziland fully implement the constitutional provision on freedom of expression and introduce a freedom of information law that is in accordance with international standards.[78]

57. Four special procedure mandate holders sent a follow-up communication regarding the alleged arbitrary detention, conviction and solitary confinement of human rights lawyer Thulani Maseko for exercising his legitimate right to freedom of opinion and expression.[79]

58. The country team noted that, in July 2014, Mr. Maseko and journalist Bheki Makhubu had been convicted of contempt of court and given prolonged prison sentences for having exercised their rights to freedom of opinion and expression by writing articles critical of the judiciary.[80]

59. Noting that defamation was regarded as a criminal offence[81] and that there was no freedom of information legislation,[82] UNESCO recommended that Swaziland decriminalize defamation and place it within a civil code that is in accordance with international standards.[83]

60. UNESCO stated that there was one major journalists' union in Swaziland, which had passed a code of ethics and could thus implement some functions of a self-regulatory body.[84]

61. UNESCO noted that the Swaziland Media Complaints Commission, a self-regulatory body of journalists and other media workers, had been officially registered in 2011 following a 14-year effort by local media organizations.[85]

62. The country team noted that only one State-owned and religious radio station was licensed to operate. Community radio space remained restricted. Although print media was open to private licensing, a high level of surveillance by State organs continued to undermine the media's independence.[86]

63. According to the country team, no significant progress had been achieved in the area of freedom of assembly and association. Political parties remained banned and their leaders remained under constant threat of prosecution under the Public Order Act, the Suppression of Terrorism Act and the Sedition and Subversive Activities Act.[87]

64. The country team noted that the registration of the Trade Union Coalition of Swaziland was indicative of some progress towards the freedom of assembly for labour formations and that the Government was currently reviewing guidance on conduct during public protests.[88]

65. The Committee on the Elimination of Discrimination against Women noted that section 86 of the Constitution set a quota of 30 per cent representation of women in Parliament and expressed concern that such provisions had not been fully implemented in the 2008 and 2013 parliamentary elections. It called upon Swaziland to fully invoke the legislative provisions on temporary special measures to increase the representation of women in Parliament.[89]

66. Concerned at the lack of information on the impact of the *tinkhundla* electoral system, which banned political parties, on the political participation of women, the Committee on the Elimination of Discrimination against Women recommended that Swaziland undertake a comprehensive study on the impediments that the *tinkhundla* electoral system presents to women who seek to stand for political office.[90]

67. The Committee on the Elimination of Discrimination against Women was concerned at reports that women were largely excluded from participating in decision-making on matters of rural development and policy owing to persisting negative social and cultural norms regarding their participation. It called upon Swaziland to facilitate the participation of women in decision-making regarding rural development programmes and policies.[91]

F. Right to work and to just and favourable conditions of work

68. The Committee on the Elimination of Discrimination against Women was concerned about the continued occupational segregation between women and men in the labour market and the fact that women were concentrated in low-paid jobs in the informal economy. It called upon Swaziland to intensify efforts to promote the entry of women into the formal economy, to strengthen efforts aimed at eliminating structural inequalities and occupational segregation and to adopt measures to narrow and close the gender pay gap by, among other things, regularly reviewing wages in sectors in which women are concentrated.[92]

69. In 2014, the ILO Committee of Experts requested Swaziland to take or envisage taking measures to, inter alia, improve women's access to employment and occupation, education, vocational training and occupational guidance.[93]

70. Concerned about the non-compliance by the private sector with the provisions of the Employment Act that provided for 12 weeks of maternity leave, the Committee on the Elimination of Discrimination against Women called upon Swaziland to conduct regular labour inspections and enforce compliance with labour laws by private employers, especially in relation to maternity leave.[94]

G. Right to social security and to an adequate standard of living

71. The country team recalled that, in the first universal periodic review, it had been recommended that Swaziland strengthen the policy coordination and implementation of national programmes in the area of food and nutrition security, as well as the access to adequate, clean and safe drinking water, especially for the population living below poverty line.[95]

72. The country team reported the draft national food and nutrition policy had just been finalized for submission to Cabinet for endorsement. It added that the Government continued to implement a project targeting provision of adequate, clean and safe drinking water for the population, especially in the most deprived regions of the country, such as Lubombo and Shiselweni.[96]

73. Concerned at the lack of income-generating opportunities for rural women, the Committee on the Elimination of Discrimination against Women called upon Swaziland to continue to expand women's access to microfinance and microcredit at low interest rates.[97]

74. The Committee on the Elimination of Discrimination against Women noted the provision by Swaziland of small financial grants to older persons and efforts to improve the lives of women with disabilities and widows. It called upon Swaziland to pay special attention to the needs of older women, women with disabilities and widows to ensure that they enjoy equal access to health care, training, employment and other rights.[98]

75. The country team recommended that Swaziland strengthen its Department of Social Welfare and its Disability Unit.[99]

H. Right to health

76. The country team recalled that, in 2011, specific recommendations had been made during the universal periodic review on HIV/AIDS, such as that a national strategy on HIV/AIDS should be developed, including strategies to eliminate stigma and discrimination, and the national HIV/AIDS prevention, care and treatment programmes should be further strengthened.[100]

77. The country team noted that Swaziland had the highest HIV prevalence in the world at 26 per cent among the sexually active population, with the rate of HIV infection higher among women than men. In 2014, the Extended National Strategic Framework on HIV/AIDS (2014-2018) had been adopted, the main goals of which were: to reduce new HIV infections among adults and children by 50 per cent by 2015; to reduce mortality and morbidity among people living with HIV; to alleviate the socioeconomic impacts of HIV/AIDS among vulnerable groups; and to improve efficiencies and effectiveness in the national response planning, coordination and service delivery.[101]

78. According to the country team, Swaziland had made progress in its HIV response since 2011. Coverage of prevention of mother-to-child transmission had increased over the years and HIV testing had been decentralized to the primary health-care level.[102] However, the achievements had been compromised by the high rate of new HIV infections. Although HIV incidence decreased from 2.5 per cent in 2011, it was still high at 1.8 per cent in 2013.[103]

79. The Committee on the Elimination of Discrimination against Women called upon Swaziland to intensify the implementation of HIV/AIDS response strategies, especially preventive strategies, and to continue to provide free antiretroviral treatment to all women and men living with HIV/AIDS.[104]

80. Recalling that it had been recommended in the 2011 review that Swaziland increase investments to reduce the high maternal mortality and the rate of child mortality,[105] the country team stated that overall maternal mortality and neonatal mortality remained high, with maternal mortality currently estimated at 593 per 100,000 live births and neonatal mortality at 20 per 1,000 births.[106]

81. The Committee on the Elimination of Discrimination against Women called upon Swaziland to step up efforts to reduce the incidence of maternal mortality, such as providing safe abortion and post-abortion care services.[107] The country team recommended that Swaziland develop clear procedures and guidelines on the implementation of constitutionally sanctioned abortion, for example in cases of pregnancy resulting from rape or incest or on medical grounds.[108]

I. Right to education

82. The country team recalled that Swaziland had been encouraged in the first review to continue pursuing the right to education for all, with particular attention given to the realization of that right for girls. Strengthening awareness-raising campaigns to ensure the use of alternative disciplinary measures to corporal punishments, in accordance with the human dignity of the child, had also been recommended.[109]

83. The country team stated that Swaziland had continued its efficient implementation of the Free Primary Education programme, with net enrolment rates remaining above 90 per cent. Primary school attendance stood at 97 per cent for boys and 98 per cent for girls. About 60 per cent of learners in primary schools were orphaned or vulnerable children.[110]

84. Noting that net enrolment at secondary level was extremely low (27 per cent) and that it was coupled with a low retention rate, especially for boys, the country team stated that contributing factors included the prohibitive cost of secondary school education, adolescent pregnancy and violence in and around schools.[111]

85. The Committee on the Elimination of Discrimination against Women recommended that Swaziland remove the indirect costs of primary education, such as payment for school uniforms, to ensure that it is free and accessible to girls.[112]

86. Concerned about the increasing number of girls who drop out of school, mainly as a result of teenage pregnancy, the Committee on the Elimination of Discrimination against Women recommended that Swaziland promote their re-entry after they have given birth.[113]

87. In 2013, the ILO Committee of Experts urged Swaziland to strengthen its efforts to improve the functioning of the education system and to provide concrete information on the measures taken to improve access to free basic education to children at the primary level and decrease dropout rates.[114]

88. UNESCO strongly encouraged Swaziland to continue efforts to guarantee better implementation of education plans and strengthen access to education for all, including reintegration of dropout students, students with prison sentences, immigrant students and other marginalized groups of society.[115]

89. UNESCO encouraged Swaziland to continue putting in place human rights education, including conducting awareness-raising campaigns to prevent corporal punishment in all settings and violence against women and lesbian, gay, bisexual and transgender communities in teacher training and as part of school curricula.[116]

J. Migrants, refugees and asylum seekers

90. UNHCR stated that, as of June 2015, Swaziland was hosting some 539 refugees and 321 asylum seekers and that education, health and other services were provided by the Government for the asylum seekers and refugees who resided in the Malindza reception centre.[117]

Notes

[1] Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Swaziland from the previous cycle (A/HRC/WG.6/12/SWZ/2).

[2] The following abbreviations have been used in the present document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

[4] See CEDAW/C/SWZ/CO/1-2, paras. 44 and 49.

[5] See United Nations country team submission for the universal periodic review of Swaziland, para. 4. See also UNESCO submission for the universal periodic review of Swaziland, table I.1.

[6] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[7] 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.

[8] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.

[9] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/ihl.
[10] International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).
[11] ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and Domestic Workers Convention, 2011 (No. 189).
[12] See country team submission for the universal periodic review of Swaziland, para. 55.
[13] Ibid., para. 9.
[14] Ibid., para. 56.
[15] Ibid., para. 34.
[16] Ibid., para. 35.
[17] ILO progress report C.App./D.14, p. 2. Available at www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_374772.pdf.
[18] See CEDAW/C/SWZ/CO/1-2, paras. 8 and 9. See also country team submission for the universal periodic review of Swaziland, paras. 17 and 56, and ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning the Worst Forms of Child Labour Convention, 1999 (No. 182) – Swaziland, adopted in 2013, published 103rd ILC session (2014), available from www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3149073:NO.
[19] See CEDAW/C/SWZ/CO/1-2, para. 11.
[20] Ibid., para. 9. See also country team submission for the universal periodic review of Swaziland, para. 56.
[21] See CEDAW/C/SWZ/CO/1-2, paras. 10 and 11.
[22] A/HRC/28/85, p. 124. See also UNHCR submission for the universal periodic review of Swaziland, p. 6.
[23] UNHCR submission for the universal periodic review of Swaziland, p. 7.
[24] Ibid., p. 6.
[25] Ibid., p. 2.
[26] Ibid., p. 3.
[27] Ibid., p. 4.
[28] See country team submission for the universal periodic review of Swaziland, para. 7.
[29] Ibid., para. 5.
[30] Ibid., para. 50. See also CEDAW/C/SWZ/CO/1-2, paras. 12 and 13.
[31] Ibid., para. 53.
[32] See CEDAW/C/SWZ/CO/1-2, paras. 14 and 15.
[33] See country team submission for the universal periodic review of Swaziland, para. 56.
[34] Ibid., para. 51.
[35] Ibid., para. 56.
[36] See CEDAW/C/SWZ/CO/1-2, para. 48.
[37] See country team submission for the universal periodic review of Swaziland, para. 52.
[38] Ibid., para. 56.
[39] See CEDAW/C/SWZ/CO/1-2, para. 50.
[40] For the titles of special procedure mandate holders, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.
[41] OHCHR, "OHCHR's approach to field work" (2014), p. 157.
[42] See country team submission for the universal periodic review of Swaziland, para. 13.
[43] Ibid., para. 10.
[44] See CEDAW/C/SWZ/CO/1-2, para. 28.
[45] See country team submission for the universal periodic review of Swaziland, para. 12.
[46] Ibid., para. 14.
[47] See CEDAW/C/SWZ/CO/1-2, para. 29.

[48] Ibid., para. 41.
[49] Ibid., paras. 18 and 19.
[50] Ibid., paras. 22 and 23.
[51] See country team submission for the universal periodic review of Swaziland, para. 18.
[52] See CEDAW/C/SWZ/CO/1-2, paras. 20 and 21.
[53] Ibid., para.21.
[54] Ibid., para. 21.
[55] Ibid., paras. 30 and 31.
[56] Ibid., paras. 20 and 21.
[57] Ibid., paras. 24 and 25.
[58] See country team submission for the universal periodic review of Swaziland, para. 15.
[59] Ibid., para. 16.
[60] Ibid., para. 18.
[61] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning the Forced Labour Convention, 1930 (No. 29) – Swaziland, adopted in 2013, published 103rd ILC session (2014), available from www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3148962:NO.
[62] See CEDAW/C/SWZ/CO/1-2, paras. 30 and 31.
[63] Ibid., paras. 24 and 25.
[64] Ibid., para. 25.
[65] Ibid., para. 25.
[66] See country team submission for the universal periodic review of Swaziland, para. 20.
[67] Ibid., para. 22.
[68] Ibid., para. 23.
[69] See CEDAW/C/SWZ/CO/1-2, paras. 12 and 13.
[70] See country team submission for the universal periodic review of Swaziland, para. 56.
[71] Ibid., para. 51.
[72] See CEDAW/C/SWZ/CO/1-2, paras. 22 and 23.
[73] See country team submission for the universal periodic review of Swaziland, para. 19.
[74] See CEDAW/C/SWZ/CO/1-2, para. 19.
[75] Ibid., paras. 42 and 43.
[76] See country team submission for the universal periodic review of Swaziland, para. 25.
[77] See UNESCO submission for the universal periodic review of Swaziland, para. 56.
[78] Ibid., para. 67.
[79] A/HRC/30/27, p. 17.
[80] See country team submission for the universal periodic review of Swaziland, para. 28.
[81] See UNESCO submission for the universal periodic review of Swaziland, para. 57.
[82] Ibid., para. 58.
[83] Ibid., para. 67.
[84] Ibid., para. 59.
[85] Ibid., para. 60.
[86] See country team submission for the universal periodic review of Swaziland, para. 27.
[87] Ibid., para. 26.
[88] Ibid., para. 28.
[89] See CEDAW/C/SWZ/CO/1-2, paras. 16 and 17.
[90] Ibid., paras. 26 and 27.
[91] Ibid., paras. 36 and 37.
[92] Ibid., paras. 32 and 33.
[93] ILO Committee of Experts on the Application of Conventions and Recommendations, direct request concerning the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) – Swaziland, adopted in 2014, published 104th ILC session (2015), available from www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3187773:NO.
[94] See CEDAW/C/SWZ/CO/1-2, paras. 32 and 33.
[95] See country team submission for the universal periodic review of Swaziland, para. 39.
[96] Ibid., para. 41.
[97] See CEDAW/C/SWZ/CO/1-2, paras. 36 and 37.

[98] Ibid., paras. 38 and 39.
[99] See country team submission for the universal periodic review of Swaziland, para. 56.
[100] Ibid., para. 37.
[101] Ibid., para. 40.
[102] Ibid., para. 41.
[103] Ibid., para. 42.
[104] See CEDAW/C/SWZ/CO/1-2, para. 35.
[105] See country team submission for the universal periodic review of Swaziland, para. 38.
[106] Ibid., para. 40.
[107] See CEDAW/C/SWZ/CO/1-2, para. 35.
[108] See country team submission for the universal periodic review of Swaziland, para. 56.
[109] Ibid., para. 43.
[110] Ibid., para. 44.
[111] Ibid., para. 45.
[112] See CEDAW/C/SWZ/CO/1-2, para. 31.
[113] Ibid., paras. 30 and 31.
[114] ILO Committee of Experts on the Application of Conventions and Recommendations, direct request concerning the Worst Forms of Child Labour Convention, 1999 (No. 182) – Swaziland, adopted 2013, published 103rd ILC session (2014).
[115] See UNESCO submission for the universal periodic review of Swaziland, para. 65.
[116] Ibid., para. 65.
[117] UNHCR submission for the universal periodic review of Swaziland, p. 2.

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Swaziland*

The present report is a summary of 11 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

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I. Information provided by stakeholders

A. Background and framework

1. Scope of international obligations[2]

1. Human Rights Watch (HRW) mentioned that Swaziland had ratified the CRPD and its Optional Protocol and acceded to the OP-CRC-SC in 2012.[3]

2. Recalling that during its first Universal Periodic Review (UPR) in 2011,[4] Swaziland had accepted to consider acceding to OP-CEDAW and OP-CAT[5], HRW recommended that Swaziland ratify these two instruments.[6]

3. The International Commission of Jurists (ICJ) stated that although Swaziland had accepted in its first UPR,[7] to ratify the ICPPED; ICRMW and the Rome Statute of the International Criminal Court, there had been no progress in this regard.[8]

4. JS2 was concerned that Swaziland rejected in 2011,[9] UPR recommendations to accede to the ICCPR OP-2.[10]

5. Although Swaziland had agreed during its first UPR[11] to consider ratifying the Optional Protocols to the CRC, JS3 noted with regret that it had not yet done it.[12]

6. ICJ recommended that Swaziland become a party to, and implement into domestic law, regional and international human rights treaties to which it is not a party, including, among others the ICRMW, ICPPED[13], OP-CAT[14] and the Rome Statute of the International Criminal Court.[15] JS5 made a similar recommendation.[16]

2. Constitutional and legislative framework

7. ICJ stated that although a new Constitution containing a Bill of Rights had been adopted in 2005, constitutional rights were often not respected in practice, or were not interpreted and implemented consistently with regional and international human rights law and standards.[17]

8. HRW stated that although the Constitution provides for three separate organs of Government, all powers are vested in the king who appoints 20 members of the 30-member Senate, 10 members of the House of Assembly, and approves all legislation passed by Parliament.[18]

9. AI was concerned at the continued slow pace of bringing laws in line with constitutional and international human rights obligations.[19] JS4 noted that the ICCPR had not been specifically incorporated into domestic laws.[20]

10. AI noted that Swaziland had not taken steps to incorporate the country's obligations under the CAT, including by developing legislation which specifically defined and criminalized torture and stipulated effective measures to prevent and punish acts of torture.[21]

11. JS6 recommended that Swaziland criminalise torture; put in place effective measures to prevent and sanction the use of torture as well as ensure impartial and effective investigation in line with its obligations under the CAT.[22] AI made similar recommendations, highlighting that Swaziland had accepted to do so in its previous review.[23]

12. JS5 recommended that Swaziland incorporate into national laws the provisions of treaties that it had ratified.[24]

13. HRW recalled that during its previous UPR,[25] Swaziland had agreed to align its national legislation with international standards to guarantee freedom of assembly and association. However, according to HRW, the Government has intensified restrictions on these rights over the past four years.[26]

14. JS2 noted that civil and political rights continued to be compromised by legislations that were not aligned to the Constitution, including the Suppression of Terrorism Act 2008; Public Order Act 1963; Swaziland Administration Order 1998; Sedition and Subversive Activities Act (Act No 46 of 1938) and the King's Decree 1973.[27] HRW[28]; JS1[29] and JS5[30] made similar comments.[31]

15. AI recalled that during its first UPR,[32] Swaziland had agreed to repeal or urgently amend the Suppression of Terrorism Act of 2008 and other pieces of security legislation to bring them in line with international human rights. However, AI added that no steps had been taken to amend or repeal restrictive laws.[33]

16. JS5 recommended that Swaziland amend the Suppression of Terrorism and Sedition Acts to bring them in line with international human rights standards and amend national laws so as to lift the ban on political parties.[34] AI[35]; JS1[36]; JS2[37] and JS6[38] made similar recommendations. HRW also recommended that Swaziland repeal or amend the 1963 Public Order Act.[39]

17. Recalling that in 2011, it was recommended that Swaziland abrogate the legislative and regulatory provisions that discriminate against women,[40] JS6 mentioned that no such laws had been enacted.[41] JS5 stated that Swaziland still had to enact the Human Rights Commission Bill of 2011 and the Domestic Violence and Sexual Offences Bill of 2009.[42]

18. AI recommended that Swaziland urgently enact the Sexual Offences and Domestic Violence Bill.[43] Elizabeth Glaser Pediatric AIDS Foundation (EGPAF)[44] and JS6 made a similar recommendation.[45]

19. HRW stated that activists said that the Sexual Offences Bill, in its current form, would not effectively protect women's rights because it did not prohibit discrimination of women under Swazi law and custom.[46]

20. JS3 noted that even though Swaziland had enacted the Child Protection and Welfare Act in 2012 which was a step towards domesticating the CRC, the institutions and programmes proposed by the Swaziland National Youth Policy had not been established.[47]

21. JS3 recommended that Swaziland align the Child Protection and Welfare Act with international law as well as resuscitate the National Child Coordination Unit for better coordination, monitoring and evaluation of programmes targeted at children.[48]

3. Institutional and human rights infrastructure and policy measures

22. HRW stated that although in 2011, Swaziland had accepted recommendations to enact legislation to fully operationalize the Human Rights and Public Administration Commission (HRPAC),[49] to provide it with adequate funding, and to clarify its mandate; the Government had failed to take the necessary steps to fully operationalize the Commission, which remained ineffective. According to HRW, in its five years of existence, the HRPAC has not produced any report about its work or role.[50] JS2 made similar comments.[51]

23. JS2 stated that since 1985, the office of the Ombudsman had not been operational.[52]

B. Cooperation with human rights mechanisms

24. ICJ recommended that Swaziland implement decisions and recommendations of regional and international human rights mechanisms in respect of its obligations under international law.[53]

1. Cooperation with treaty bodies

25. JS2 mentioned that the initial report to the Human Rights Committee had been overdue since 2005.[54]

2. Cooperation with special procedures

26. AI recalled that during its first UPR,[55] a number of important recommendations had been rejected by Swaziland, including a standing invitation to UN Special Procedures.[56]

27. JS5 stated that in 2012 and 2015, Swaziland had received requests for visits from the Special Rapporteur on the independence of judges and lawyers and from the Special Rapporteur on the human right to safe drinking water and sanitation respectively, but neither of them had received an invitation. JS5 added that Swaziland had not invited the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression since the request made in 2003.[57]

28. JS1 recommended that Swaziland extend a standing invitation to the UN Special Procedures,[58] in particular to the Special Rapporteurs on human rights defenders; on freedom of expression; and on freedom of peaceful assembly and association.[59] HRW made similar recommendations.[60] JS5 recommended that Swaziland extend an invitation to the Special Rapporteurs on the independence of judges and lawyers and on the human right to safe drinking water and sanitation in accordance with their request.[61]

C. Implementation of international human rights obligations

1. Equality and non-discrimination

29. HRW noted that the Constitution does not include marital status or sexual orientation as a protected ground against discrimination.[62]

30. Stating that women, especially those living in rural areas under traditional leaders were often subjected to discrimination and harmful practices,[63] HRW recommended that Swaziland enact reforms to ensure equality for women and prevent their discrimination in law and practice, particularly under Swazi law and custom.[64]

31. EGPAF noted that there were several societal drivers of the HIV epidemic in Swaziland, including stigma and discrimination against persons living with HIV[65] as well as gender inequality and gender-based violence.[66] In addition, traditional practices that place women at a higher risk of HIV continue, including "wife inheritance" by a male relative of the deceased husband.[67]

32. EGPAF recommended that Swaziland make greater efforts to address stigma and discrimination, as well as gender inequality and gender-based violence as part of the national HIV/AIDS response, and take all appropriate measures to end traditional practices such as the "wife inheritance" and intergenerational sex.[68]

33. JS4 stated that the discrimination of lesbian, gay, bi-sexual, transgender and inter-sex (LGBTI) persons based on either actual or perceived sexual orientation or gender identity persisted and that same-sex sexual conduct between male persons was still criminalized.[69]

34. JS4 recommended that Swaziland ensure that discriminatory and invasive customary laws are abrogated as well as review the laws that undermine LGBTI persons' rights.[70] HRW recommended that Swaziland decriminalise same-sex relations.[71]

35. HRW recommended that Swaziland reconsider and commit to recommendations for reforms rejected during its first UPR,[72] including ensuring enjoyment of the right to health without discrimination on the basis of sexual orientation or gender identity; and prevention of discrimination based on marital status and sexual orientation.[73]

2. Right to life, liberty and security of the person

36. JS2 mentioned that there was currently a *de facto* moratorium on executions in Swaziland and that the last executions had taken place in 1983. However, the death penalty still existed.[74]

37. JS6 recalled that in 2011,[75] Swaziland did not accept several recommendations to accede to the ICCPR-OP 2 and abolish the death penalty.[76] It added that King Mswati III recently pardoned two death row inmates, commuting their sentences to life imprisonment.[77]

38. JS6 recommended that Swaziland abolish the death penalty.[78]

39. AI explained that according to the Constitution, lethal force could potentially be used in a range of circumstances, including defending property; making a lawful arrest; preventing the escape of a lawfully detained person or suppressing a riot. It added that these grounds were inconsistent with international human rights law on the use of force and firearms by law enforcement officials, and open to abuse.[79]

40. AI repeated its concerns that law enforcement officials used excessive force against peaceful demonstrators, used lethal force without justification against criminal suspects, and torture and other ill-treatment against arrested or detained persons. In some cases, such ill-treatment has resulted in deaths in custody. According to AI, there had been no proper investigations into and accountability for these cases.[80] JS2[81] and JS6[82] made similar comments.

41. AI recommended that Swaziland institute an urgent review of laws, regulations and procedures relating to the use of force and firearms by law enforcement officials and implement a process for the establishment of an independent and impartial body to oversee and investigate alleged human rights violations by the security forces.[83]

42. JS6 stated that since 2011, cases of mob justice, killings, and torture of persons usually suspected of witchcraft, or theft had been observed.[84] It added that torture and degrading punishment were also perpetrated by the army, in particular along the borderlines or informal crossings.[85]

43. According to AI, certain laws, such as the Suppression of Terrorism Act, increase the risk of torture, including by allowing detention without trial and not obliging the authorities to produce the detainee in court at any stage.[86] JS6 made similar comments.[87]

44. JS6 noted that there were numerous cases where citizen had been killed by game rangers for alleged poaching. According to the law, game rangers are immune from prosecution for killing suspected poachers and empowered to use firearm in the execution of their duties.[88] JS2 added that a parliamentary committee, appointed to investigate the alleged brutality of game rangers, had reported nine incidents of deaths and injuries against game rangers and 33 against suspected poachers.[89]

45. JS6 recommended that Swaziland amend the Game Act to allow for the prosecution of all perpetrators of extra-judicial killings and train game rangers on the importance of human rights.[90]

46. JS5 recommended that Swaziland immediately implement measures to prevent, investigate and prosecute all cases of torture as agreed during its previous UPR.[91]

47. JS5 noted that many of those charged with crimes in connection with the peaceful exercise of their rights to freedom of expression, association and assembly were also subjected to arbitrary arrests and detentions, prolonged pre-trial detention and unfair trials.[92]

48. JS5 recommended that Swaziland ensure access to justice and adequate redress for victims of arbitrary arrests and illegal detention and that those responsible for them be held accountable.[93]

49. JS4 noted that human rights abuses and violations against LGBTI persons continued to go undocumented, unreported and unprosecuted and added that these violations were legally perpetrated by State and non-State actors.[94]

50. JS4 recommended that Swaziland condemn utterances and other forms of hate speech by politicians and public officials and ensure prosecution of State agents who commit human rights violations against LGBTI individuals and their organizations.[95]

51. JS2 stated that detention centres and prison conditions were labelled to be below humane and liveable standards. Prisons are overpopulated; there is no separation between female detainees and convicts and female juveniles are held in adult correctional facilities.[96]

52. AI stated that women's right to equality was not protected by the provision guaranteeing that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed". According to AI, this formulation places an undue burden on the individual woman when it is the responsibility of the State to prohibit and condemn all forms of harmful practices which negatively affected women.[97]

53. HRW recommended that Swaziland fully enforce and implement the constitutional provisions that no woman shall be forced to take part in a custom which she objects to.[98]

54. Noting that gender based violence (GBV), particularly sexual violence,[99] was a growing problem in Swaziland,[100] JS6 recommended that Swaziland review all criminal laws and procedures on sexual offences and GBV to eliminate gender bias and ensure that justice and fairness are accorded to both the survivor and the perpetrator.[101]

55. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) recalled that during its first UPR,[102] Swaziland had accepted a recommendation to raise awareness on alternatives to corporal punishment.[103] GIEACPC noted that the Children's Protection and Welfare Act 2012 included prohibition of corporal punishment as a sentence of the courts, but corporal punishment remained lawful in all other settings.[104] JS3 stated that corporal punishment by teachers was legal and routinely practiced.[105]

56. GIEACPC recommended that Swaziland clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal all legal defences for the use of corporal punishment in childrearing and education.[106] JS3 made a similar recommendation.[107]

57. JS3 stated that there was a growing trend of child and youth abuse by the State and parents purportedly in "the best interests of the child". It added that children and youth were illegally incarcerated in prison centres by parents in collaboration with the Commissioner of Correctional Services, who claimed that the children were unruly.[108]

3. Administration of justice, including impunity, and the rule of law

58. AI noted that since 2011, Swaziland had been experiencing a crisis in rule of law, affecting the protection of human rights and access to justice for victims of human rights violations.[109]

59. ICJ stated that since Swaziland's first UPR, the rule of law and the right to a fair trial had been severely weakened by the authorities.[110] According to ICJ, the judges' appointment process continues to pose a threat to judicial independence and impartiality[111] and some recent judicial appointments have given rise to concern about the lack of qualification of those appointed.[112] HRW noted that the King exercised control over the judiciary and appointed judges.[113]

60. Noting that the King was protected from any law suits and that anyone acting on his behalf was treated as above the law,[114] HRW recommended that Swaziland revise or amend legislation providing excessive powers to the King.[115]

61. JS5 stated that during Chief Justice Ramodibedi's tenure, a number of irregularities occurred in criminal proceedings, particularly those of a political nature. Irregularities included judges with a vested interest in a case refusing to recuse themselves, failure to provide written judgements and the apparent manipulation of the court roll to ensure cases are brought before certain judges.[116]

62. JS5 recommended that Swaziland ensure the independence of the judiciary, prosecute and punish those responsible for acts undermining the independence or impartiality of judicial proceedings as well as ensure that the rules relating to the appointment and removal of judges are in line with the Basic Principles on the Independence of the Judiciary.[117] AI[118], HRW[119], ICJ[120] and JS1[121] made similar recommendations.

63. ICJ recommended that Swaziland introduce and implement a case allocation and management system that is impartial and fair, removing direct control by the Chief justice or the ability of any single judicial officer to influence the allocation and management of cases.[122]

64. According to ICJ, although Swaziland accepted in its first UPR,[123] recommendations to put in place human rights training programmes for members of the judiciary and law enforcement officials, none of them have been implemented.[124]

65. ICJ recommended that Swaziland urgently develop a code of conduct for judges with a view to strengthening the integrity of the judiciary and improving the accountability of judges.[125] It also reiterated the recommendation to set up a training programme for members of the judiciary and law enforcement officials.[126]

66. AI stated that lawyers and independent-minded judges had been threatened with violence, arrest, prosecution and other forms of harassments as a consequence of their advocacy for the rule of law.[127]

67. JS5 recommended that Swaziland ensure that lawyers are not subjected to prosecution, sanctions or threats thereof for any action taken in accordance with recognized professional duties and raise awareness of the Basic Principles on the Role of Lawyers among lawyers, judges and prosecutors, by giving them periodically, appropriate mandatory education and training on the Principles.[128]

68. JS5 mentioned that in April 2015, the Anti-Corruption Commission had brought an application for an arrest warrant against Minister of Justice Shongwe; Chief Justice Ramodibedi; Judges Simelane and Annandale, as well as High Court Registrar Nhlabatsi for defeating the ends of justice. In May 2015, the charges against Annandale and Nhlabatsi were withdrawn and Chief Justice Ramodibedi was dismissed. Noting that in June 2015, seven acting judges had been appointed, JS5 raised concerns at the close family ties of the appointed judges and how this would affect the independence of the judiciary.[129] AI[130] and ICJ[131] made similar comments.

4. Right to privacy, marriage and family life

69. JS3 noted that the legal age of marriage was 18 years for both boys and girls, but, with parental consent and approval from the Minister of Justice, girls may marry at 16. It added that although the Deputy Prime Minister had spoken out against the traditional practice that permit marriages for girls as young as 13, civil law was generally not enforced to prevent it.[132]

5. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

70. JS1 stated that the rights to freedom of expression, association and assembly remained threatened and human rights defenders and civil society organisations were targeted for the work they do.[133] AI[134], HRW[135], JS2[136] and JS5[137] made similar comments.

71. JS1 mentioned that in 2012, the African Commission on Human and People's Rights had adopted a resolution on the human rights situation in Swaziland and had called on the Government to respect, protect and fulfil the rights to freedom of expression, association and assembly.[138]

72. JS1 was concerned at restrictions on freedom of expression, assembly and association on the basis of draconian colonial era laws and others promulgated by the authorities. Principally, these laws, which include the Sedition and Subversive Activities Act (1938) and the Suppression of Terrorism Act (2008), have been subjectively interpreted at various times to curb fundamental freedoms and convict and imprison human rights defenders and journalists.[139] AI[140], HRW[141] and JS5[142] made similar comments.

73. AI recommended that Swaziland remove all restrictions, in law and practice, which prevent the full enjoyment of the right to freedom of expression as guaranteed under the ICCPR and other international standards.[143] HRW[144], JS1[145] and JS5[146] made similar recommendations.

74. JS1 stated that regular threats emanating from the authorities and the royal family to journalists led to Government censorship and self-censorship by the media further curtailing democratic freedoms.[147] HRW made similar comments.[148]

75. AI mentioned that fourteen people were currently charged under the 2008 Suppression of Terrorism Act and the 1938 Sedition and Subversive Activities Act in five separate trials. The trials have all been postponed, pending the outcome of a constitutional challenge to the laws under which the charges were made.[149] JS5 made similar comments.[150]

76. JS1 recommended that Swaziland withdraw all charges against organisations and individuals under the Suppression of Terrorism Act and lift the restrictions that prevent them from carrying out their human rights activities. It also recommended examining charges against persons, organisations and movements under the Sedition and Subversives Activities Act with a view to annulling restrictions against them.[151]

77. JS2 noted that independent media was still almost non-existent as it was not legally recognized or allowed to operate. The Swaziland Broadcasting and Broadcasting Corporation Bills of 2010 have still not been passed five years after they were drafted. According to JS2, there is undue censorship of information particularly within the State-owned media house.[152]

78. JS1 recommended that Swaziland open up the environment in which the media operates to allow registration and operation of more independent newspapers and media houses.[153] JS2 made a similar recommendation.[154]

79. HRW mentioned that in March 2014, after Thulani Maseko, human rights lawyer and Bheki Makhubu, editor of the magazine *The Nation*, had published two articles

criticizing the judiciary; both were arrested, tried, and convicted of contempt of court. In July 2014, both were sentenced to two years in prison and in June 2015, the Supreme Court granted Maseko and Makhubu's appeal and ordered their release from prison.[155] AI[156], ICJ,[157] JS1,[158] JS2,[159] and JS5[160] made similar comments.

80. JS5 recommended that Swaziland respect, protect and promote the right to freedom of expression, in accordance with its undertaking during the 2011 UPR, including by ensuring that people are not arbitrarily arrested, detained or subjected to politically-motivated trials for the peaceful expression of their opinion and criticism of Government and the judiciary.[161] HRW[162] and JS1[163] made similar recommendations.

81. AI recalled that during its first UPR,[164] Swaziland agreed to create an enabling environment for civil society where citizens were free to exercise fully their rights to freedom of peaceful assembly and association.[165] JS1 made a similar comment.[166]

82. JS1 stated that the Public Order Act often had been used to curb freedom of assembly and prevent trade unions and other groups from holding peaceful protests.[167] It remained concerned that the authorities regularly suppressed peaceful demonstrations and noted that persons considered leaders of such protests had been arrested and subjected to judicial persecution.[168]

83. JS1 recommended that Swaziland allow all peaceful protests to take place and authorities should stop preventing demonstrations and adopt best practices on freedom of peaceful assembly prescribed by the United Nations Special Rapporteur on freedom of peaceful assembly and association.[169] JS1 also recommended that the Public Order Act be reviewed and its section 3 repealed which requires individuals or groups to seek permission from the police before they can hold protests.[170]

84. HRW explained that the Constitution does not address the formation or role of political parties. Swaziland practices an electoral system based on individual merit and excludes the participation of political parties in elections. According to HRW, traditional leaders and chiefs have powers to restrict access to their territories, and have often used these powers to bar civil society groups and political groups like the Ngwane National Liberatory Congress and PUDEMO from holding meetings, recruiting, or any kind of presence in their areas.[171] AI[172], JS1[173] and JS2[174] made similar comments.

85. JS1 stated that major political formations and unions had been banned by the authorities using harsh provisions of the Suppression of Terrorism Act.[175] It added that the 1938 Act criminalises spoken or published statements which have a "seditious intention", but the definitions of sedition were overly broad and had been subjectively interpreted by the authorities.[176] AI[177], HRW[178], JS2[179] and JS5[180] made similar comments.

86. JS5 noted that individuals had been charged with terrorism and sedition for participating in peaceful assemblies and/or associating with political parties, especially the People's United Democratic Movement (PUDEMO) and the youth wing of PUDEMO, the Swaziland Youth Congress. Two other parties, the South African-based Swaziland Solidarity Network and the Swaziland People's Liberation Army also remained branded as terrorist entities.[181] JS1 made similar comments.[182]

87. JS5 recommended that Swaziland respect the rights of all its citizens to freedom of assembly and freedom of association, particularly by allowing labour, political and civil groups to assemble peacefully, free from Government interference and ensure that political parties, organisations and associations with peaceful objective are not labelled terrorist groups merely because they are critical of the Government.[183] AI[184], JS1[185] and JS2[186] made similar recommendations. HRW recommended that Swaziland revoke the king's 1973 decree on political parties and allow the registration and operation of political parties, and introduce multi-party democratic elections.[187] JS5 made a similar recommendation.[188]

88. JS1 stated that the Government had refused to recognise the registration of the Trade Union Congress of Swaziland (TUCOSWA).[189] AI noted that TUCOSWA had been finally registered in May 2015.[190]

89. JS2 noted that the Government was working on a Tinkhundla and Regional Administration Bill of 2010 that had negative effects for civil society organisations in terms of their access to communities at grass-root levels.[191]

90. JS1 was concerned that human rights activists had been arrested and persecuted for the work and others have been threatened by senior government officials including by the Prime Minister.[192] JS2 noted that human rights activists continue to leave the country to seek refuge, escaping from arrest and torture by the police.[193]

91. JS1 recommended that Swaziland investigate all cases of intimidation of civil society activists and human rights defenders and allow human rights defenders to carry out their activities without restrictions and without the threat of being reprimanded and charged under the Sedition and Suppressive Activities Act and the Suppression of Terrorism Act.[194]

92. JS3 was concerned that government agencies and the police had unleashed hostility and intimidation *vis-a-vis* youth formations, and that the Ministry for the Youth had rebuffed any youth formation outside the SNYC.[195]

93. JS4 stated that owing to laws combined with social stigma and prejudices, LGBTI organisations were not able to register and operate freely.[196]

94. JS1 recommended that Swaziland register all labour unions and recognise their legitimacy in catering to the rights of workers as well as respect the right of all Swazis to form associations and belong to groups in line with constitutional provisions and international human rights.[197]

6. Right to social security and to an adequate standard of living

95. JS3 stated that Swaziland seemed to be regressing in terms of its commitment to improving the rights of children and youth. It added that the Government did not have any social services for children from evicted families, children with disabilities, children living with HIV/AIDS, child headed households, and children in poverty.[198]

7. Right to health

96. EGPAF stated that Swaziland had the highest HIV prevalence rate in the world, with almost 28 percent of persons of 15 and older living with HIV. According to EGPAF, Swaziland has shown remarkable political commitment to ending the HIV/AIDS epidemic, and was close to achieving elimination of mother-to-child transmission of HIV.[199] Noting that women and children suffered heavily from HIV in Swaziland,[200] EGPAF explained that prevention would require societal behavioural changes and the intensification of education and awareness-raising among all parts of the population.[201]

97. EGPAF recommended that Swaziland continue to provide significant financial support for the national HIV/AIDS response; ensure sufficient numbers of properly trained health care workers and take further steps to improve access to high-quality, age-appropriate sexual and reproductive health care education and services.[202]

98. Noting that the HIV/AIDS prevalence among the youth was very high, JS3 was concerned that health workers contributed to worsening the problem due to hostility and negative attitudes towards young people seeking health services related to sexual reproductive health services.[203]

99. JS4 stated that Swaziland had taken measures to ensure that there was universal access to care and treatment with special focus on women. It added that these HIV

strategies had not been holistic in addressing all vulnerable populations and that the LGBTI population had been left in the fringes with little or no targeted programmes.[204]

100. JS4 recommended that Swaziland ensure equal access to general health care and HIV/AIDS prevention, testing, treatment and care services in the public domain for LGBTI persons as well as work to make transition related and gender affirming health care accessible and affordable for transgender and intersex persons.[205]

101. JS3 noted that unsafe and illegal abortions still continue to put young people at risk, often leading to deaths. According to the Ministry of Health and Social Welfare, illegal abortions amount to 19 percent of maternal mortality rates. Abortion in Swaziland is criminalised, but may be permitted under certain conditions.[206]

8. Right to education

102. JS3 noted that the quality of education needed to be improved, including of infrastructures, and the number of trained and qualified teachers and funds to cover all expenses for children be increased. Nonetheless, statistics show that the enrolment of grade one students who graduated from primary school has increased from 59.8 per cent in 2007 to 77.9 per cent in 2014.[207]

103. JS3 stated that Government offered tuition fees and basic stationery for orphaned and vulnerable children from primary up to high school. According to JS3, this effort is welcome though very limited and does not comprehensively cover all school necessities such as uniforms for the children.[208]

104. JS3 stated that girl children were often discriminated against and this was reflected in school enrolment ratio with girls at 47 per cent against 53 per cent boys.[209]

105. JS3 recommended that Swaziland standardise tuition fees in public schools to curb the issue of top-up fees which renders education inaccessible and unaffordable for some sections of the society and ensure quality and relevant education at primary, high school and at tertiary level.[210]

106. JS3 stated that children with disabilities remained side-lined in terms of specialised social services; but the Government had managed to accommodate the needs of these children in terms of education.[211]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

AI	Amnesty International, London, UK;
EGPAF	Elizabeth Glaser Pediatric AIDS Foundation, Geneva, Switzerland;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, UK;
HRW	Human Rights Watch, New York, USA;
ICJ	International Commission of Jurists, Geneva, Switzerland.

Joint submissions:

JS1	Joint submission 1 submitted by: CIVICUS: World Alliance for Citizen Participation, Johannesburg, South Africa; and Lawyers for Human Rights, Swaziland;
JS2	Joint submission 2 submitted by: Swaziland Multi-Media Community Network, Swaziland Concerned Church Leaders, Swaziland Coalition of Concerned Civic Organisations and Constituent Assembly-Swaziland; Swaziland;
JS3	Joint submission 3 submitted by: SOS-Swaziland; Super Buddies; Prison Fellowship, Luvatsi-Swaziland Youth Empowerment Organisation; Swaziland;
JS4	Joint submission 4 submitted by: Rock of Hope (RoH), Swaziland; Iranti.Org.South Africa; Gender DynamiX.South Africa; Pan Africa ILGA.South Africa
JS5	Joint submission 5 submitted by: The Southern Africa Litigation Centre (SALC); Lawyers for Lawyers Foundation (L4L); International Bar Association's Human Rights Institute; Judges for Judges (J4J);
JS6	Joint submission 6n submitted by: Swaziland Coalition of Concerned Civic Organisations (SCCCO): Coordinating Assembly of Non-governmental Organisations (CANGO); Coalition of the Informal Economy Associations of Swaziland (CIEAS); Federation of the Swaziland Business Community (FSBC); Legal Assistance Centre (LAC); Luvatsi Swaziland Youth Empowerment Organisation; Media Institute of Southern African (MISA); Swaziland Agricultural and Plantation Workers Union (SAPWU); Swaziland National Association of Teachers (SNAT); and Women and Law in Southern Africa (WLSA) Swaziland.

[2] The following abbreviations are used in UPR documents:

ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure

ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

[3] HRW, p. 1. See also JS5, p. 1.
[4] A/HRC/19/6/Add.1, p. 2.
[5] See also ICJ, para. 16; JS2, para. 1 ; JS5, p. 4 and JS6, para. 13.
[6] HRW, p. 1 and p. 5.
[7] A/HRC/19/6/Add.1, p. 2.
[8] ICJ, para. 16.
[9] A/HRC/19/6/Add.1, p. 4.
[10] JS2, para. 1. See also JS5, p. 4 and JS6, para. 9.
[11] A/HRC/19/6, p. 13.
[12] JS3. p. 1. See also JS5, p.4.
[13] ICJ, para. 25.
[14] See also JS6, para. V.
[15] ICJ, para. 24.
[16] JS5, p. 10.
[17] ICJ, para. 2. See also AI, p. 2.
[18] HRW, p. 4.
[19] AI, p. 2.
[20] JS4, p. 2.
[21] AI, p. 3. See also JS6, para. 13.
[22] JS6, para. V.
[23] AI, p. 3. See also JS6, para. 13.
[24] JS5, p. 11.
[25] A/HRC/19/6/Add.1, p. 4.
[26] HRW, p. 1.
[27] JS2, para. 2.
[28] HRW, pp. 1 and 2.
[29] JS1, paras 2.2, 2.3 and 2.4.
[30] JS5, pp. 4 and 5.
[31] HRW, pp. 1 and 2.
[32] A/HRC/19/6/Add.1, p. 6.
[33] AI, p. 1.
[34] JS5, p. 11.
[35] AI, p. 6.
[36] JS1, para. 7.1.
[37] JS2, para.4.
[38] JS6, para. V.
[39] HRW, p. 3.
[40] A/HRC/19/6/Add.1, p. 2.
[41] JS6, para. 20.
[42] JS5, p. 4.
[43] AI, p. 6.
[44] EGPAF, para. V.
[45] JS6, para. 21.
[46] HRW, p. 5.
[47] JS3, para. 1. See also JS5, p.4.
[48] JS3, para. 3.
[49] A/HRC/19/6, pp. 13-14.
[50] HRW, p. 4.
[51] JS2, para. 3.
[52] JS2, para. 3.

[53] ICJ, para. 26.
[54] JS2, para. 1.
[55] A/HRC/19/6/Add.1, p. 5.
[56] AI, p. 1. See also JS2, para. 1.
[57] JS5, p.4.
[58] See also JS5, p. 11.
[59] JS1, para. 7.6.
[60] HRW, p. 4.
[61] JS5, p. 10.
[62] HRW, p. 5. See also AI, p. 3.
[63] HRW, p. 5.
[64] HRW, p. 6.
[65] EGPAF, para.8.
[66] EGPAF, para.23. See also EGPAF, paras 3 and 8.
[67] EGPAF, para.25.
[68] EGPAF, para. V.
[69] JS4, p. 3.
[70] JS4, p. 6.
[71] HRW, p. 6.
[72] A/HRC/19/6, p. 21, and A/HRC/19/6/Add.1, p. 5.
[73] HRW, p. 6.
[74] JS2, p. 8. See also JS6, p. 3.
[75] A/HRC/19/6/Add.1, p. 4.
[76] JS6, para. 9.
[77] JS6, para. 11.
[78] JS6, para. 12.
[79] AI, p. 3.
[80] AI, p. 5.
[81] JS2, pp. 6, 7 and 8.
[82] JS6, paras 14, 16 and 17.
[83] AI, p. 6.
[84] JS6, para. 14.
[85] JS6, para. 15.
[86] AI, p. 5.
[87] JS6, para. 16.
[88] JS6, para. 18.
[89] JS2, p. 7.
[90] JS6, para. 19.
[91] JS5, p. 11. See A/HRC/19/6/Add.1, p. 5.
[92] JS5, p. 7.
[93] JS5, p. 11.
[94] JS4, p. 5.
[95] JS4, p. 6.
[96] JS2, p. 6.
[97] AI, p. 3.
[98] HRW, p. 6.
[99] See also EGPAF, para. 21.
[100] JS6, para. 20.
[101] JS6, para. 21.
[102] A/HRC/19/6, p. 15.
[103] GIEACPC, para. 1.1.
[104] GIEACPC, para. 1.2.
[105] JS3, p. 5.
[106] GIEACPC, para. 1.3.
[107] JS3, p. 9.
[108] JS3, p. 6.

[109] AI, p. 2.
[110] ICJ, para. 3.
[111] ICJ, para. 4. See also JS2, p. 9.
[112] ICJ, para. 6.
[113] HRW, p. 4.
[114] HRW, p. 4. See also ICJ, p. 2.
[115] HRW, p. 5.
[116] JS5, p. 8. See also JS2, p. 9.
[117] JS5, pp. 11-12.
[118] AI, p. 6.
[119] HRW, p. 5.
[120] ICJ, paras 18 and 19.
[121] JS1, para. 7.3.
[122] ICJ, para. 23.
[123] A/HRC/19/6, p. 15.
[124] ICJ, para. 17.
[125] ICJ, para. 20.
[126] ICJ, para. 21.
[127] AI, p. 4.
[128] JS5, p. 12.
[129] JS5, p. 9.
[130] AI, p. 2.
[131] ICJ, para. 14.
[132] JS3, p. 5.
[133] JS1, para. 1.5.
[134] AI, p. 1.
[135] HRW, pp. 2 and 3.
[136] JS2, p.4.
[137] JS5, p. 4.
[138] JS1, para. 2.1.
[139] JS1, para. 1.6. See also JS1, 2.2.
[140] AI, pp. 1, 2 and 4.
[141] HRW, p. 3.
[142] JS5, p.6.
[143] AI, p. 1.
[144] HRW, p. 3.
[145] JS1, paras 7 and 7.1.
[146] JS5, p. 11.
[147] JS1, para. 3.1.
[148] HRW, p. 3.
[149] AI, p. 4.
[150] JS5, pp.5 and 6.
[151] JS1, para. 7.2.
[152] JS2, p. 4.
[153] JS1, para. 7.2.
[154] JS2, p. 10.
[155] HRW, p. 3.
[156] AI, p. 4.
[157] ICJ, paras 10-12.
[158] JS1, para. 3.4. See also paras 3.2 and 3.3.
[159] JS2, p. 4.
[160] JS5, p. 10.
[161] JS5, p. 11.
[162] HRW, p. 4.
[163] JS1, para. 7.2.
[164] A/HRC/19/6/Add.1, p. 4.

165 AI, p. 1.
166 JS1, para. 1.4. See also HRW, p. 1.
167 JS1, para. 2.3.
168 JS1, para. 5.1.
169 JS1, para. 7.4.
170 JS1, para. 7.2.
171 HRW, p. 2.
172 AI, p. 2.
173 JS1, para. 1.7. See also paras 5.1 to 5.5.
174 JS2, p. 5.
175 JS1, para. 2.2.
176 JS1, para. 2.4.
177 AI, p. 3.
178 HRW, p. 3.
179 JS2, p. 2. See also JS2, p. 5.
180 JS5, p.6.
181 JS5, p. 6.
182 JS1, para. 6.1. See also paras 4.4 and 5.3.
183 JS5, p. 11.
184 AI, p. 6.
185 JS1, para. 7.4.
186 JS2, p. 10.
187 HRW, p. 2.
188 JS5, p. 11.
189 JS1, para. 6.2.
190 AI, p. 5. See also JS2, p. 3.
191 JS2, p.4.
192 JS1, para. 4.1. See also paras 4.2 and 4.3.
193 JS2, p. 5.
194 JS1, para. 7.3.
195 JS3, para. 3. See also JS2, p. 5.
196 JS4, p. 4.
197 JS1, para. 7.5.
198 JS3, p. 1.
199 EGPAF, para. 2.
200 EGPAF, para. 9. See also JS4, p. 5.
201 EGPAF, para. 13. See also EGPAF, paras. 11 and 12.
202 EGPAF, para. V.
203 JS3, p. 7.
204 JS4, p. 5.
205 JS4, p. 6.
206 JS3, pp. 7 and 8.
207 JS3, p. 4.
208 JS3, p. 3.
209 JS3, p. 4.
210 JS3, pp. 8 and 9.
211 JS3, p. 3.